R. LANGIS

LOWER SILVER CREEK WATERSHED PROJECT

1983 RECOMMENDED PLAN, AS MODIFIED BY THE 1998 PLAN UPDATE

FINAL

INITIAL STUDY/NEGATIVE DECLARATION
SCH # 2000102034

ENVIRONMENTAL ASSESSMENT

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FINAL
NEGATIVE DECLARATION

DATE: December 7, 2000

SUBJECT: Negative Declaration for the 1983 Recommended Plan, as Modified by the 1998 Plan Update

Pursuant to the California State Public Resources Code and the California Environmental Quality Act (CEQA) Guidelines, as amended to date, the Santa Clara Valley Water District (District) submits a Negative Declaration for the 1983 Recommended Plan, as modified by the 1998 Plan Update.

A map of the project area can be found in the Initial Study on page 1-3. The project is described in Subsection 1.4, pages 1-5 to 1-15 of the Initial Study.

FINDINGS:

Based on the analysis and discussion of the attached Initial Study, the District makes the following findings:

1. Modifications to the 1983 Recommended Plan contained in the 1998 Plan Update do not cause new significant environmental effects and do not cause a substantial increase in the severity of significant effects identified in the 1983 FEIR/FEIS, and therefore do not constitute substantial changes that require major revisions of the 1983 FEIR/FEIS.

2. There have been no substantial changes in circumstances since the 1983 FEIR/FEIS was prepared that would require major revisions to that document due to the involvement of new significant impacts or substantially more severe significant impacts.

3. Analysis of new information which was not known at the time the 1983 FEIR/FEIS was certified has shown that:

   - The project would not have new significant effects not disclosed in the 1983 FEIR/FEIS;

   - The project would not cause significant impacts that would be substantially more severe than shown in the 1983 FEIR/FEIS;

   - There are no alternatives or mitigation measures that the District has declined to adopt that would substantially reduce significant impacts and that were previously found infeasible as part of the decision-making process in 1983 and have since been found to be feasible. Mitigation measures and alternatives that would substantially reduce significant environmental impacts and that were previously found infeasible have been reexamined and have been included in the modified project in the 1998 Plan Update.

Therefore, pursuant to the State CEQA Guidelines Section 15062 and 15063, no Subsequent or Supplemental Environmental Impact Report is needed for the project as modified by the 1998 Plan Update. The District believes that an Addendum to the 1983 FEIR/FEIS could have been prepared for the project as modified, pursuant to the State CEQA Guidelines Section 15164, but that preparation and circulation of a negative declaration provides more opportunities for public review and comment. Therefore, the District has prepared this Initial Study and Negative Declaration.

BASIS OF FINDINGS

Based on the environmental evaluation contained in the attached Initial Study and in the *Lower Silver Creek Final Watershed Plan and Environmental Impact Statement/Report*, the Lower Silver Creek Flood Control Project 1983 Recommended Plan, as modified by the 1998 Plan Update, will not require a Supplemental or Subsequent Environmental Impact Report. The information in the Environmental Impact Report/Environmental Impact Statement (EIR/EIS) certified in 1983 fully discloses the significant environmental impacts of the proposed project, includes discussion of feasible mitigation measures, and analyzes reasonable alternatives to the project. The modifications to the project included in the 1998 Plan Update are analyzed in the attached Initial Study, which shows that the modified project would not create new significant impacts that were not disclosed in the 1983 FEIR/FEIS. The modifications reduce the amount of concrete-lined stream channel, increase the amount of riparian and/or upland habitat to be created, increase the amount of the wetland in the stream channel, and maintain the same flood protection characteristics as the original 1983 Recommended Plan.

The modifications to the1983 Recommended Plan, by the 1998 Plan Update, would not cause significant adverse effects on aesthetics, agricultural resources, cultural resources, geology/soils, hazards and hazardous materials, land use/planning, mineral resources, population/housing, public services, recreation, or utilities/service systems. In addition, the modifications to the project will not cause permanent adverse impacts on biological resources, hydrology/water quality or transportation/traffic.

The significant, unavoidable impacts that could not be substantially mitigated in the 1983 FEIR/FEIS were: (1) the removal of scattered riparian vegetation with commensurate impacts on wildlife and aesthetic values until the riparian mitigation plantings are mature; (2) adverse visual impacts in some areas because of the concrete-lined channels; (3) temporary effects such as dust generation, noise, traffic obstructions, wind and water erosion would adversely impact nearby residences during construction; and (4) acquisition of 5.6 acres of additional land. The modifications to the 1983 Recommended Plan do not result in new significant impacts or increase the severity of impacts identified in the 1983 FEIR/FEIS: (1) the project as modified would have the same affect to riparian vegetation as discussed in the 1983 Recommended Plan; however, the 1983 Recommended Plan, as modified by the 1998 Plan Update, includes environmental benefits by increasing the value of wetland vegetation and riparian habitat over the conditions envisioned under the 1983 Recommended Plan; (2) the modifications to the 1983 project substantially reduces the amount of concrete-lined channel; thus rendering, along with the increase in planted areas, visual impacts to a less-than-significant level; (3) the modifications to the 1983 Recommended Plan would result in similar temporary construction effects; however, the District includes in all projects accepted standards of practice, Best Management Practices (BMPs), to reduce construction impacts to less-than-significant levels. With respect to Item #4, about 1.5 acres of additional right-of-way would be required under the 1983 Recommended Plan, as modified by the 1998 Plan Update; however, the additional right-of-way would not result in a substantial increase in the severity of impact because the land is vacant and no permanent interference to the operation of the parks or school (where the additional right-of-way will be acquired) would occur. Riparian and/or upland plantings would enhance the visual experience of the parks and school. The 1983 Recommended Plan, as modified by the 1998 Plan Update would provide the same level of flood protection for residents and businesses in the floodplain of the creek as was the goal of the 1983 Recommended Plan.

The project area along the banks of the portion of Lower Silver Creek that is the subject of the proposed flood protection project remains generally urban in nature, as it was when the 1983 FEIR/FEIS was prepared. Although new species have been designated by state and federal agencies as species of concern since the 1983 FEIR/FEIS was certified, none of these newly-designated species is found in the area that would be affected by the project. The project has not been modified in such a way that new significant impacts to transportation systems or air quality would occur, taking into account changes in traffic in the project area and changes to air quality in the Bay Region. Therefore, circumstances surrounding the project and the project site have not changed substantially in such a way that the project as modified will cause new significant impacts not identified in the 1983 FEIR/FEIS.

The modifications to the project will not substantially reduce the habitat of a fish and wildlife species (and would increase habitat), will not cause a fish or wildlife population to drop below self-sustaining levels, or reduce the number or restrict the range of an endangered, rare, or threatened species. The project's main objective is to provide long-term flood protection and thus would not achieve short-term goals to the disadvantage of long-term environmental goals.

The District has added BMPs (See Table 3) to the 1983 Recommended Plan, as modified by the 1998 Plan Update or refined some of the mitigation features contained in the 1983 FEIR/FEIS. Mitigation features of the 1983 FEIR/FEIS included the following features and techniques: (1) biological mitigation plantings; (2) landscaping at selected highly visible road crossings; (3) fences and an automobile barrier; (4) steps to control erosion and minimize the production of sediment and other pollutants to the water and air; and, (5) following health and safety regulations. These mitigation features are included (e.g., fences and auto barrier), increased (e.g., riparian plantings), or are integrated as District BMPs within the 1983 Recommended Plan, as modified by the 1998 Plan Update. The BMPs listed in Table 3 would reduce the construction impacts identified as being significant and unavoidable in the 1983 FEIR/FEIS to less-than-significant levels. Some of the BMPs are not necessary to reduce significant effects identified for the 1983 Recommended Plan or for the modifications to the project but are included to provide additional environmental protection to air and water quality, fishery and aquatic resources, habitat, transportation/traffic, noise, and cultural resources per the District's commitment to environmental stewardship. All of the BMPs are accepted standards of practice. The modifications to the 1983 Recommended Plan do not result in significant impacts (See **Section 3.0 and 4.0**);

Both the original project and the project as modified would temporarily eliminate existing wetland and uplands habitat during construction. However, the modified project would create about 14 new acres of riparian and/or upland habitat and enhance about six acres of wetlands within the project limits. Therefore, no direct, permanent loss of wetland or riparian habitat will result from construction of the project as modified.

TABLE OF CONTENTS

Page

SECTION 1.0 INTRODUCTION ... 1-1

1.1 PURPOSE OF THE INITIAL STUDY & DECISION TO PREPARE A NEGATIVE DECLARATION ... 1-1
1.2 SANTA CLARA VALLEY WATER DISTRICT'S CORE BUSINESS ... 1-1
1.3 PROJECT BACKGROUND & 1983 RECOMMENDED PLAN ... 1-2
1.4 1983 RECOMMENDED PLAN AS MODIFIED BY THE 1998 PLAN UPDATE ... 1-5
1.5 BEST MANAGEMENT PRACTICES (BMPs) ... 1-15
1.6 OTHER PUBLIC AGENCIES WHOSE APPROVAL IS REQUIRED ... 1-16
1.7 ORGANIZATION OF THE INITIAL STUDY/NEGATIVE DECLARATION AND THE ENVIRONMENTAL ASSESSMENT/FINDING OF NO SIGNIFICANT IMPACT ... 1-16

SECTION 2.0 SURROUNDING LAND USE AND PROJECT SETTING ... 2-1

SECTION 3.0 ENVIRONMENTAL CHECKLIST FORM ... 3-1

3.1 BACKGROUND ... 3-1
3.2 ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED ... 3-1
3.3 ENVIRONMENTAL IMPACTS ... 3-2
3.4 DISCUSSION OF ENVIRONMENTAL EVALUATION ... 3-9
3.5 DETERMINATION ... 3-9

SECTION 4.0 ENVIRONMENTAL EVALUATION ... 4-1

4.1 AESTHETICS ... 4-1
4.2 AGRICULTURAL RESOURCES ... 4-3
4.3 AIR QUALITY ... 4-3
4.4 BIOLOGICAL RESOURCES ... 4-4
4.5 CULTURAL RESOURCES ... 4-8
4.6 GEOLOGY AND SOILS ... 4-8
4.7 HAZARDS AND HAZARDOUS MATERIALS ... 4-9
4.8 HYDROLOGY AND WATER QUALITY ... 4-11
4.9 LAND USE AND PLANNING ... 4-12
4.10 MINERAL RESOURCES ... 4-13
4.11 NOISE ... 4-13
4.12 POPULATION AND HOUSING ... 4-14
4.13 PUBLIC SERVICES ... 4-15
4.14 RECREATION ... '4-15
4.15 TRANSPORTATION/TRAFFIC ... 4-16
4.16 UTILITIES AND SERVICE SYSTEMS ... 4-18
4.17 MANDATORY FINDINGS OF SIGNIFICANCE ... 4-19

Page

SECTION 5.0 CONTRIBUTORS 5-1

SECTION 6.0 REFERENCES 6-1

SECTION 7.0 DISCUSSION OF ADDITIONAL CONSIDERATIONS AS REQUIRED BY THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) 7-1

7.1 OBJECTIVE AND NEED 7-1
7.2 SUMMARY OF ALTERNATIVES 7-1
7.3 COMPARISON OF ALTERNATIVES 7-2
7.4 SOCIAL AND ECONOMIC IMPACTS 7-5
7.5 ISSUES OF ENVIRONMENTAL JUSTICE 7-6
7.6 CONFORMITY WITH FEDERAL AIR QUALITY STANDARDS 7-6
7.7 COMPLIANCE WITH THE ENDANGERED SPECIES ACT (FESA) 7-6
7.8 PUBLIC PARTICIPATION 7-6

FIGURES

FIGURE 1. REGIONAL LOCATION MAP 1-3
FIGURE 2. PROJECT SITE AND REACH INDEX 1-10
FIGURE 3. TWO-STAGE VEGETATED EARTHEN CHANNEL 1-11
FIGURE 4. VEGETATED BLOCK WALL CHANNEL 1-12
FIGURE 5. CONCRETE-LINED TRAPEZOIDAL CHANNEL 1-13
FIGURE 6. CONCRETE-LINED RECTANGULAR CHANNEL 1-14
FIGURE 7. HISTORIC MAP OF LOWER SILVER CREEK 2-9
FIGURE 8. COYOTE CREEK MEAN DAILY DISCHARGE, 1916-1917 2-12
FIGURE 9. COYOTE CREEK MEAN DAILY DISCHARGE, 1999 2-13
FIGURE 10. SPOT WATER TEMPERATURE DATA FOR PORTIONS OF COYOTE CREEK AND LOWER SILVER CREEK 2-14

TABLES

TABLE 1. QUALITATIVE COMPARISON OF 1983 RECOMMENDED PLAN AND 1998 PLAN UPDATE 1-6
TABLE 2. 1983 RECOMMENDED PLAN, AS MODIFIED BY THE 1998 PLAN UPDATE: PROJECT FEATURES/ELEMENTS RETAINED OR MODIFIED IN RELATION TO THE 1983 RECOMMENDED PLAN 1-8
TABLE 3. BEST MANAGEMENT PRACTICES INCORPORATED INTO PROJECT 1-17
TABLE 4. SPECIAL STATUS SPECIES THAT POTENTIALLY OCCUR IN OR NEAR THE LOWER SILVER CREEK PROJECT AREA 2-4
TABLE 5. FISH SPECIES REPORTED FROM THE SILVER CREEK WATERSHED 2-10
TABLE 6. COMPARISON OF EFFECTS OF THE THREE ALTERNATIVES ON A VARIETY OF RESOURCES IN LOWER SILVER CREEK 7-2

APPENDICES

APPEND A PUBLIC COMMENTS AND RESPONSES

APPEND B SANTA CLARA VALLEY WATER DISTRICT BOARD OF DIRECTORS ENDS POLICY E1

SECTION 1.0 INTRODUCTION

This section describes the purposes of an Initial Study/Environmental Assessment (IS/EA) and the decision process to prepare a Negative Declaration (ND), provides information on the Santa Clara Valley Water District's core business, provides a description of the project as currently proposed, and provides a short discussion on other public agencies that must approve the project through the permitting process or that have an interest in the project.

The IS, prepared pursuant to the California Environmental Quality Act (CEQA) and the State CEQA Guidelines, makes up Sections 2 through 6 of this document. Section 7, at the end of this document, contains additional considerations necessary to complete the EA for the National Resource Conservation Service (NRCS). It provides analyses and discussions required by NRCS procedures for implementing the National Environmental Policy Act (NEPA) that are different from the requirements of CEQA. The NRCS is responsible for preparing the Finding of No Significant Impact (FONSI).

1.1 PURPOSE OF THE INITIAL STUDY AND DECISION TO PREPARE A NEGATIVE DECLARATION

The Santa Clara Valley Water District (District), acting jointly with the National Resource Conservation Service (NRCS), prepared an Final Environmental Impact Report/Final Environmental Impact Statement (FEIR/FEIS) in 1983 analyzing the original Lower Silver Creek Watershed Project (See Section 1.3 for a description of the 1983 Recommended Plan). The 1983 Recommended Plan was approved but never constructed. During the 1990's, the District, NRCS and the Guadalupe-Coyote Resource Conservation District (GCRCD), and representatives from various regulatory agencies reviewed and modified the project to reduce potential environmental impacts of the original 1983 Recommended Plan. The modified plan is called the Lower Silver Creek Watershed 1998 Project Plan Update (See Section 1.4 for a description of the 1998 Plan Update). The *project* is defined in this IS/EA as the 1983 Recommended Plan, as modified by the 1998 Plan Update. This IS/EA analyzes changes made to the original 1983 Recommended Plan by the 1998 Plan Update, and supplements the FEIR/FEIS prepared for the original project in 1983.

The analysis of the 1983 Recommended Plan, as modified by the 1998 Plan Update, in the IS/EA shows that there are no new significant impacts resulting from the changes to the project or from changes in circumstances surrounding the project, and no new mitigation measures or alternatives different from those described in the 1983 FEIR/FEIS that would reduce significant impacts have been identified that have not been made part of the 1983 Recommended Plan, as modified by the 1998 Plan Update. Therefore, a supplemental or subsequent EIR is not required under State CEQA Guidelines 15162 and 15163. Based on the analysis in the IS/EA, an Addendum to the 1983 FEIR under Guidelines Section 15164 could have been an appropriate environmental review document for the 1983 Recommended Plan, as modified by the 1998 Plan Update. The District has chosen to prepare a Negative Declaration (under CEQA) in order to provide the public with an opportunity to review and comment on the document because the original FEIR is 17 years old and there are major (although beneficial) changes in the project subject to that EIR; no such public review and comment is required for an Addendum to an EIR.

1.2 SANTA CLARA VALLEY WATER DISTRICT'S CORE BUSINESS

In October 1999, the District Board of Directors adopted Policy E-1 in which the stated mission of the District is "a healthy, safe, and enhanced quality of living in Santa Clara County through the comprehensive management of water resources in a practical, cost-effective, and environmentally sensitive manner." In adopting this policy, the Board set the following directives:

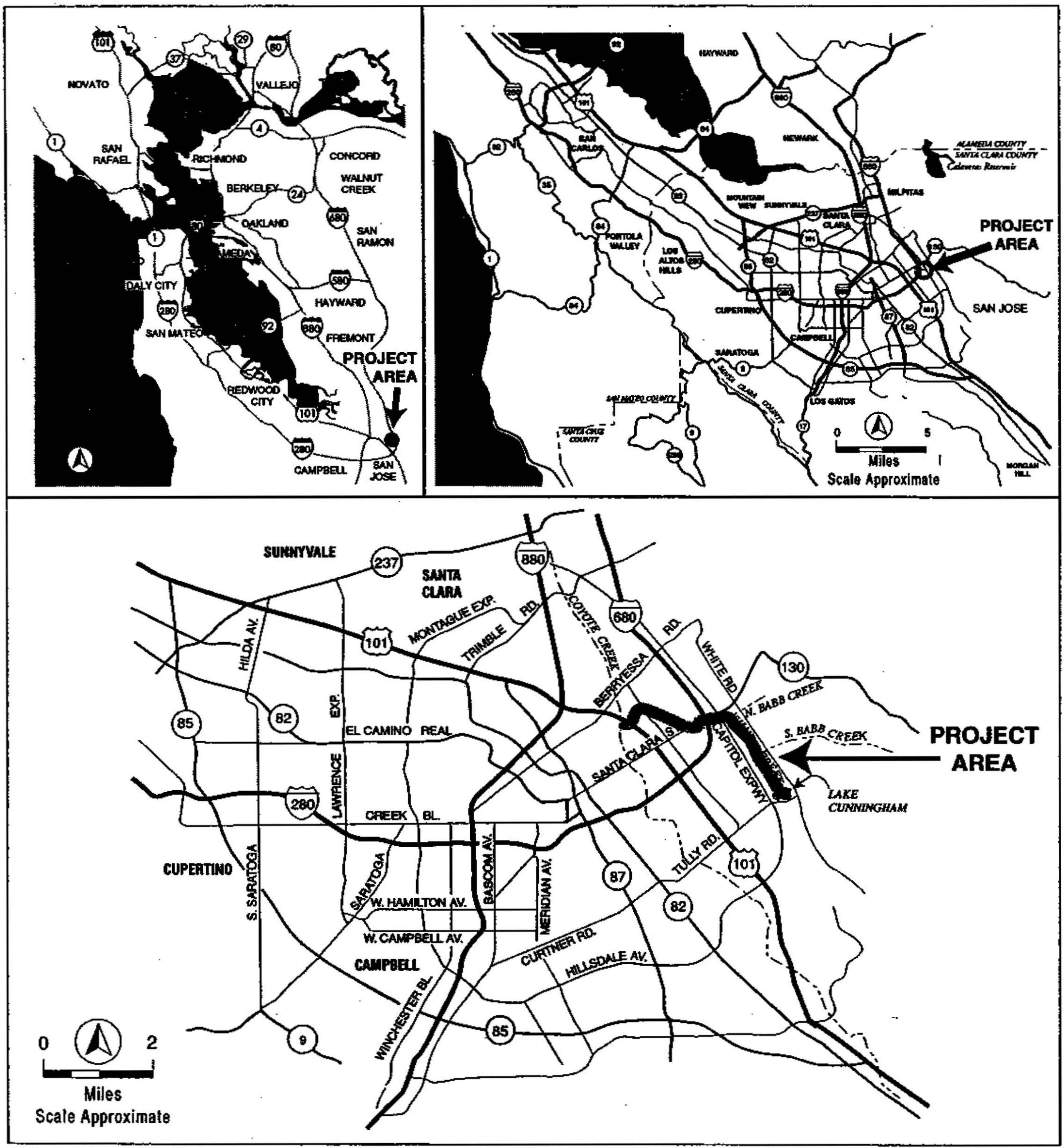
- E-1 There is a healthy and safe environment for residents and visitors.
  - 1.1 There is a reliable supply of healthy, clean drinking water.
  - 1.2 There is reduced potential for flood damages.
    - 1.2.1 The cost of reducing the potential for flood damages is balanced with benefits (including possible environmental restoration & enhancement).
    - 1.2.2 There is a balance between the contributions of watersheds and streams in providing for public health and safety and in providing protection of natural resource benefits.
      - 1.2.2.1 Homes, schools, businesses, and transportation networks are protected from flooding and erosion.

- E-2 There is enhanced quality of life in Santa Clara County.
  - 2.1 Watersheds, streams, and the natural resources therein are protected and when appropriate enhanced or restored.
    - 2.1.1 Healthy creek and bay ecosystems are protected, enhanced, or restored as determined appropriate by the Board.
      - 2.1.1.1 Mitigation for the adverse impacts of District activities are identified.
      - 2.1.1.2 Opportunities to enhance or restore natural resource benefits of streams and watersheds are identified.
      - 2.1.1.3 Mitigation, enhancements, or restorations are implemented when determined appropriate by the Board.
  - 2.2 There are additional open spaces, trails, and parks along creeks and in the watersheds when reasonable and appropriate.

As part of the CEQA process, impacts of District activities upon biological resources will be analyzed and measures to mitigate impacts will be identified in three levels: (1) those measures necessary to mitigate significant impacts as defined under CEQA, (2) those measures resulting in no net loss of biological resources in watersheds and streams where this level of mitigation is in excess of what staff believes is required by CEQA, and (3) those measures resulting in a net gain of the biological resources in the watersheds and streams. This will allow the Board to make a distinction between mitigation measures required under CEQA and measures that are considered enhancements.

1.3 PROJECT BACKGROUND AND 1983 RECOMMENDED PLAN

In 1980, the District and the Guadalupe-Coyote Resource Conservation District (GCRCD; at that time known as the Evergreen Resource Conservation District) requested the NRCS to assist in continuing to reduce potential flood damages associated with flooding along the Lower Silver Creek stream corridor by preparing a watershed work plan. Lower Silver Creek is located in the eastern portion of the City of San Jose and the adjacent unincorporated area of Santa Clara County (Figure 1). In 1983 a watershed plan was prepared under the authority of the Watershed Protection and Flood Prevention Act, Public Law 83-566, as amended (16 USC 1001-1008). The lead federal agency was the NRCS (at that time known as the Soil Conservation Service) and participating local agencies were the District and GCRCD. A Final Watershed Plan and Environmental Impact Statement/Environmental Impact Report (FEIS/FEIR)



SOURCE: EIP Associates

FIGURE 1: REGIONAL LOCATION MAP

was prepared in accordance with Section 102(2)(C) of NEPA and CEQA, respectively, and approved in July 1983. This plan is herein referred to as the 1983 Recommended Plan.

The purposes and objectives of the 1983 Recommended Plan were to provide the following:

- reduce the number of buildings damaged from all floods, including the 100-year flood;
- reduce the number of vehicles damaged by a 100-year flood;
- reduce the number of roadways subject to closure by a 100-year flood;
- reduce the number of motorists that would have to be re-routed because of road closures;
- reduce sediment deposition on the floodplain during a 100-year flood;
- reduce the number of people that would need food, shelter, and other emergency services during a 100-year flood;
- reduce the number of residences where a life-threatening hazard would exist during a 100-year flood;
- eliminate life-threatening hazard during a 100-year flood to residents of a retirement center and to students and personnel at an elementary school; and
- provide for establishment of 6.6 acres of biological and landscape mitigation plantings.

These objectives represent the project sponsors' response to the circumstances created by Lower Silver Creek's floodplain being in a high density urban area where total damages from the 100-year flood were estimated to be $37,170,792 (in 1999 dollars). Average annual damages from all floods were estimated to be $3,067,697. A serious threat of loss of life existed because District officials would have about a one-hour period between the time they could predict when a flood was imminent and the time actual flooding would occur. These problems were compounded by the fact that many residents in the floodplain were unaware of the flood risk and would be less likely to evacuate at the first signs of impending danger, and because of the large number of children residing in the floodplain.

The project envisioned in the 1983 Recommended Plan consisted of about five miles of channel modifications, which involved the installation of rectangular or trapezoidal concrete channels, floodwalls, box culverts, a pedestrian bridge, landscaping, and biological mitigation plantings. Two alternative plans (Nonstructural, and Channel Work and Floodproofing), were designated as candidate plans and evaluated in the 1983 FEIS/FEIR. At that time, the 1983 Recommended Plan (known in the FEIS/FEIR as the Channel Work and Floodproofing alternative) was recommended.

The 1983 Recommended Plan included:

- ~0.9 mile of excavated earthen channel;
- over 3 miles of newly constructed or retrofitted concrete-lined channel;
- an approximate 5-foot high drop structure; and
- floodproofing of two structures.

The excavated earthen channel would have been trapezoidal. The concrete channel would have included about 0.5 mile of rectangular channel (including existing box culverts), and approximately three miles of newly constructed trapezoidal channel. Channel capacity ranged from 3,600 cubic feet per second to 6,100 cubic feet per second. District rights-of-way ranged in width from 58 feet to 150 feet, necessitating the acquisition of a little less that six acres adjacent to Lower Silver Creek. Waterproof sealant would have been applied to the lower two feet of the walls of two industrial buildings, portable floodshields installed on their doors, and one-way valves installed on their external sewer connections.

A U.S. Army Corps of Engineers (Corps) Public Notice for a permit application for the 1983 Recommended Plan was issued on March 8, 1991, but the application was withdrawn because of concerns regarding potential adverse environmental impacts of the 1983 Recommend Plan. The 1983 Recommended Plan was subsequently modified to take into account environmental concerns of federal, state, and local resource and regulatory agencies, as well as concerned environmental groups.

1.4 1983 RECOMMENDED PLAN AS MODIFIED BY THE 1998 PLAN UPDATE

The 1983 Recommended Plan was subsequently modified by the 1998 Plan Update. The changes to the 1983 Recommended Plan, as modified by the 1998 Plan Update, is the subject of this Initial Study/Environmental Assessment. A comparison of the 1983 Recommended Plan with 1998 Plan Update revised designs for each channel reach is presented in Table 1. Reach lengths for the 1983 Recommended Plan and 1998 Plan Update differ slightly; thus, a direct comparison of lengths is not feasible.

The purposes and the objectives of the modified 1983 Recommended Plan are the same as for the 1983 Recommended Plan, with the following additions:

- increasing the amount of riparian and/or upland habitat along the sides of and in the Lower Silver Creek channel while continuing to provide the same level of flood protection;
- making the channel potentially more attractive to fish by including a defined low-flow channel for all new (does not include retrofitting existing structures that will not be modified) channel work and the aforementioned riparian habitat potentially cooling the water;
- improving the channel's visual appearance (i.e., reducing the amount of concrete channel);
- reducing the amount of concrete channel compared to the 1983 Recommended Plan;
- enhancing the value of wetland vegetation.

TABLE 1
QUALITATIVE COMPARISON OF 1983 RECOMMENDED PLAN AND 1998 PLAN UPDATE
Lower Silver Creek Watershed Plan

	Proposed Channel Design	
Reach[1]	1983 Recommended Plan[2]	1998 Plan Update[3]
1a	Excavated Trapezoidal Earth Channel	Excavated Two-Stage Earth Channel
1b	Trapezoidal Concrete Channel	Hybrid Vegetated Concrete Block Wall w/Topsoil Over Rip-Rap at Invert
1c	Trapezoidal Concrete Channel	Trapezoidal Concrete w/Low-Flow Channel[4]
1d	Excavated Trapezoidal Earth Channel	Excavated Two-Stage Earth Channel w/Floodwalls
2[5]	Rectangular Concrete Channel	Rectangular Concrete with Low-Flow Channel
3a	Excavated Earth Channel	Excavated Earth Channel
3b	Trapezoidal Concrete Channel	Trapezoidal Concrete with Low-Flow Channel
3c	Trapezoidal Concrete (existing)	Trapezoidal Concrete with Low-Flow Channel
3d	Trapezoidal Concrete/Part Earthen	Trapezoidal Concrete with Low-Flow Channel
3e	Excavated Trapezoidal Earth Channel	Excavated Earth Channel
3f	Excavated Trapezoidal Earth Channel	Excavated Earth Channel
4a	Rectangular Concrete Channel	Hybrid Vegetated Concrete Block Wall w/Topsoil Over Rip-Rap
4b	Trapezoidal Concrete Channel	Hybrid Vegetated Concrete Block Wall w/Topsoil Over Rip-Rap at Invert
4c	Trapezoidal Concrete Channel	Hybrid Vegetated Concrete Block Wall w/Topsoil Over Rip-Rap at Invert
5a	Rectangular Concrete Channel	Hybrid Vegetated Concrete Block Wall w/Topsoil Over Rip-Rap at Invert, Transition Structure
5b	Trapezoidal Concrete Channel	Hybrid Vegetated Concrete Block Wall w/Topsoil Over Rip-Rap at Invert
5c	Trapezoidal Concrete Channel	Hybrid Vegetated Concrete Block Wall w/Topsoil Over Rip-Rap at Invert
6a	Trapezoidal Concrete Channel	Hybrid Vegetated Concrete Block Wall w/Topsoil Over Rip-Rap at Invert
6b	Trapezoidal Concrete Channel	Hybrid Vegetated Concrete Block Wall w/Earth

1. Reaches for the 1983 Recommended Plan and 1998 Plan Update differ slightly.
2. A pilot channel would be constructed as a standard construction practice.
3. A defined (e.g., confined by vegetation or weirs and maintained) low-flow channel would be constructed in all earthen reaches.
4. May be changed to a hybrid vegetated concrete block channel.
5. A portion of Reach 2 was constructed in 1992.

The modifications in the 1998 Plan Update were developed after the design team (i.e., District, NRCS, GCRCD, and regulatory agency staff) evaluated 11 additional flood reduction measures and three new nonstructural, structural, and geomorphological alternatives to reduce the amount of concrete channel originally proposed in the 1983 Recommended Plan. The modifications in the 1998 Plan Update were selected by the design team as the most feasible and the preferred approach to modify the 1983 Recommended Plan. The 1983 Recommended Plan, as modified by the 1998 Plan Update, addresses objections by state and federal agencies that the extensive concrete channel proposed under the 1983 Recommended Plan would cause a loss of wetland and riparian habitat, a degradation of the ecosystem, and further decline of fish habitat.

As noted in the previous subsection, the 1983 Recommended Plan called for construction of over three miles of concrete-lined trapezoidal and rectangular channel and approximately 0.9 mile of earth-lined channel. The modifications in the 1998 Plan Update include a substantial decrease in the length of the concrete-lined channel, includes variations on the shape of the channel by incorporating lengths of two-stage vegetated earthen channel ("two-stage" means re-creating river and floodplain features within the channel confines) and hybrid block wall channel (i.e., block walls that are capable of being vegetated), and includes two shorter (in height) drop structures. In total, the modifications in the 1998 Plan Update reduce the amount of concrete-lined channel by about two miles to a total of about 1.5 miles. Table 2 show the features retained or modified in the 1983 Recommended Plan, as modified by the 1998 Plan Update.

The project vicinity and channel reach index are presented in Figure 2. Typical cross-sections of the various channel treatments are presented in Figures 3, 4, 5 and 6.

The excavated two-stage vegetated earthen channels (Figure 3) would be about 100 to 200 feet wide at the top and would have earth banks constructed at slopes of 2 horizontal to 1 vertical (2:1) planted with native trees and shrubs. The earth bottom would be approximately 50 to 75 feet wide, supporting the establishment of wetland species, and would contain a paved or other hard-surface maintenance road. A defined low-flow channel approximately six feet wide and three feet deep would be constructed to carry the summer base stream flows segments along the bottom of the two-stage channel. The precise configuration of this channel will be determined during final design. The low-flow channel would contain resting pools and riffles to improve instream fish habitat. The low-flow channel would be shaded by native trees and shrubs to help reduce solar radiation, inhibit the growth of cattails, and provide a source of insects and organic matter for the creek. The two-stage channel would contain the 100-year flow, with a bench within this channel for the access road.

native grasses.

The vegetated hybrid block wall channels (Figure 4) ~~with~~ earth or earth-covered rip-rap bottom would be about 65 to 90 feet wide at the top and would ~~have~~ 2:1 banks constructed of hollow concrete blocks filled with soil and planted with ~~small native shrubs and vines~~. The bottom of the channel would be earth or rip-rap covered with soil, and would be approximately 30 to 65 feet wide. This area would contain a maintenance road constructed of some form of hard surfacing. A defined low-flow channel, similar to the two-stage channel, would be constructed in the bottom of the hybrid block channel. The hybrid block channel would contain the 100-year flow.

0.8:1

The concrete-lined trapezoidal channels (Figure 5) would be about 45 to 120 feet wide at the top and 12 to 15 feet deep. The bottom would be configured in a broad V-shape with the center of the channel forming a low-flow channel. The trapezoidal channel would contain the 100-year flow. The concrete-lined rectangular channel (Figure 6) would be about 65 wide and 13 feet deep. The bottom would be configured in a narrow V-shape along one wall to form a low-flow channel. The rectangular channel would contain the 100-year flow.

TABLE 2

1983 RECOMMENDED PLAN, AS MODIFIED BY THE 1998 PLAN UPDATE: PROJECT FEATURES/ELEMENTS RETAINED OR MODIFIED IN RELATION TO THE 1983 RECOMMENDED PLAN

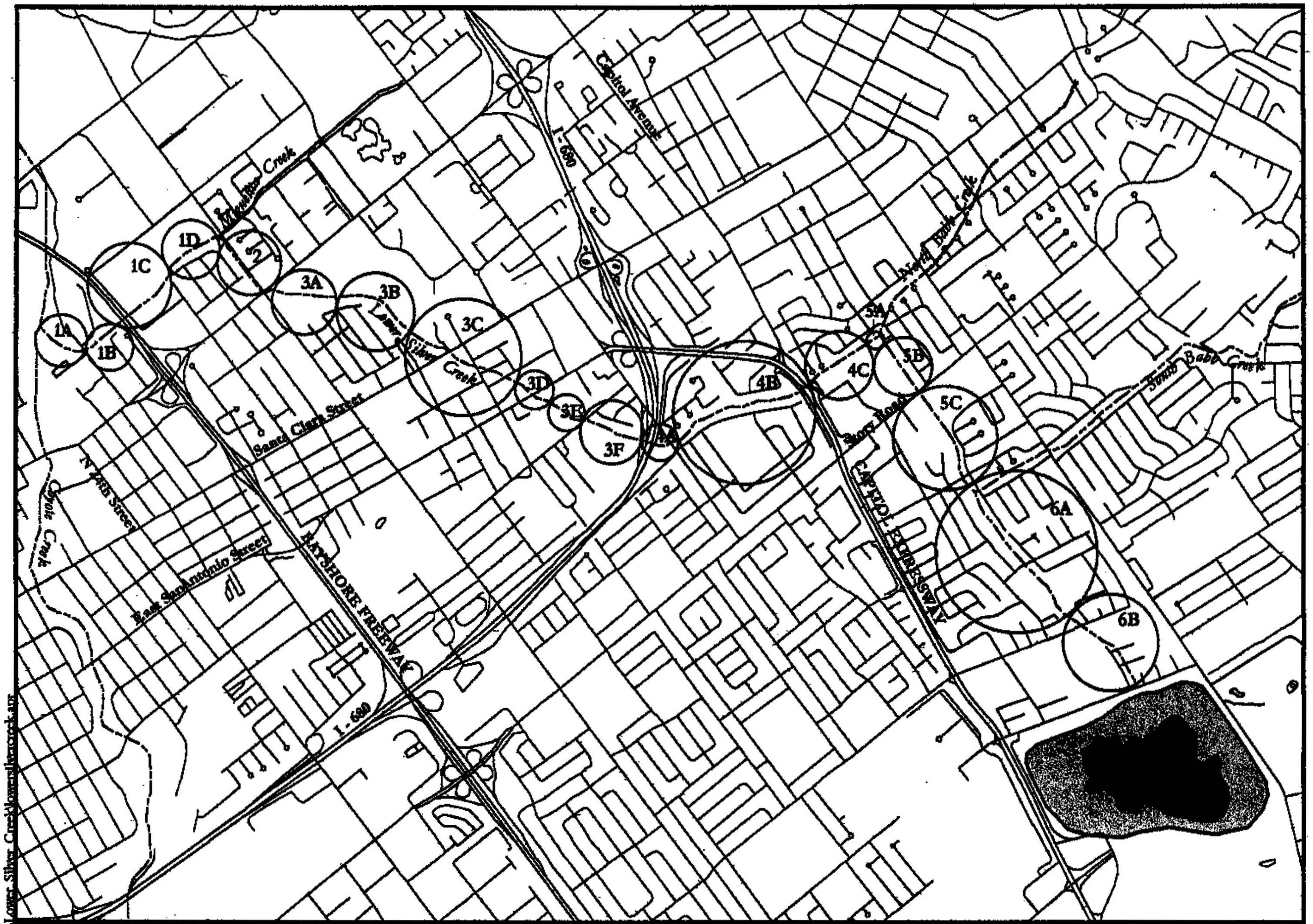
Project Elements (from 1983 Recommended Plan)	**Project Elements (1983 Recommended Plan as modified by the 1998 Plan Update)**
~0.9 mile excavated trapezoidal earthen channel	~0.9 mile excavated two-stage earthen channel (any new structure will have a low-flow channel; retrofitting existing structures with a low-flow channel is not part of this project)
~3 miles trapezoidal concrete channel	~0.6 mile trapezoidal concrete channel (concentrate low flows; resting pools)
~0.5 mile rectangular concrete channel	~0.25 mile rectangular concrete channel (concentrate low flows; resting pools)
add floodwalls to ~0.4 mile existing trapezoidal concrete channel	add floodwalls to ~0.4 mile existing trapezoidal concrete channel (retrofit w/low-flow channel and resting pools)
~0.4 mile bridges and box culvert existing and to be built	~0.4 mile bridges and box culverts (existing culverts retrofitted w/low-flow channel, where needed)
NONE	~2 miles hybrid vegetated concrete block wall w/ topsoil over riprap (new design including low-flow channel; rock vortex weirs)
~7 acres biological mitigation plantings	~14 acres riparian and/or upland plantings
wetland vegetation would have been removed by excavation but the acreage cannot be reliably determined from information contained in 1983 FEIR/FEIS	areas to be excavated are essentially the same as in 1983; ~5 acres of wetland vegetation currently exist based on available data and would be removed; total wetland vegetational area projected to emerge from project changes: ~6 acres; net gain in wetland area over existing conditions: ~1 acre
NONE	low-flow channel; resting pools, rock vortex weirs, lunkers and riffle sections
~0.1 miles of levees constructed near the outlet (confluence w/ Coyote Creek)	NOT INCLUDED (until improvement of Coyote Creek at a later date)
install pedestrian bridge at Kammerer Ave.	SAME

Table 2 (Continued)

1983 RECOMMENDED PLAN, AS MODIFIED BY THE 1998 PLAN UPDATE: PROJECT FEATURES/ELEMENTS RETAINED OR MODIFIED IN RELATION TO THE 1983 RECOMMENDED PLAN

Project Elements (from 1983 recommended plan)	Project Elements (1983 recommended plan as modified by the 1998 Plan Update)
removal of 4 abandoned bridges (Shortridge, Lausset and Kammerer avenues and Sunset Ct.) between Alum Rock Ave. and I-680	Bridge at Kammerer may be removed (At Shortridge and Lausset avenues, the roadways have been removed and the pedestrian bridges remain; bridge to be removed at Sunset Ct.); in addition, bridges (i.e., box culverts) throughout project limits may be enlarged to accommodate flows. May eliminate need for floodwalls.
acquisition of ~6 acres of additional right-of-way	acquisition of about 7 acres of additional right of way
irrigation for all plantings during establishment period	SAME
construction of a 5 foot drop structure near the confluence of Coyote Creek	construction of two notched drop structures (2.0 and 2.5 ft. high) near the confluence of Coyote Creek
relocation of sports track and parking lot at Mathson School	SAME
flood flow channel capacity: 3,600-6,100 cfs	flood flow channel capacity: 3,600-5,630 cfs
new fences will be installed along concrete channel segments	SAME
an automobile barrier will be installed along the channel where it parallels King Road	SAME
floodproofing of two buildings	May/May not be necessary
significant excavation and fill within the channel corridor (320,000 cy of excavation; 28,000 cy of earth fill; 27,600 cy of channel concrete; 600 cy of riprap)	significant excavation and fill within the channel corridor (329,600 cy of excavation.; 50,500 cy of earth fill; 17,300 cy of channel concrete; 4,000 cy of concrete pavers; 6,300 cy of stacked blocks; 52,600 cy of riprap)

1. A pilot channel would be constructed as a standard construction practice. ?



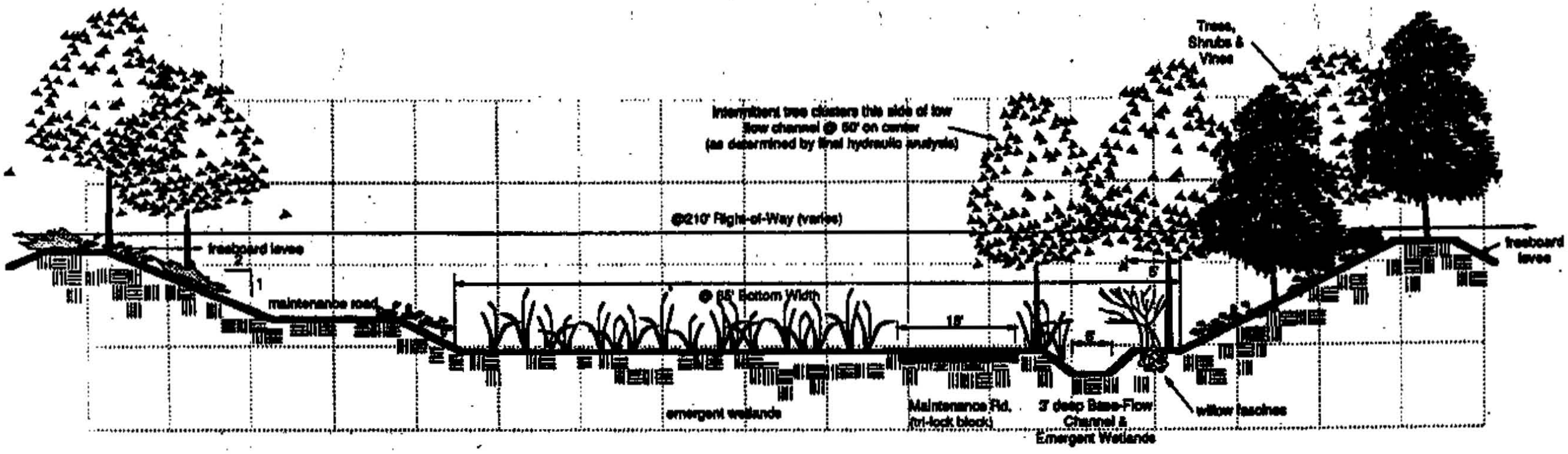
C:\GISProjects_10\Lower_Silver_Creek\lowersilvercreek.apr

EIP ASSOCIATES

Source: USGS, 7.5-minute quadrangle, San Jose East, 1980; and EIP Associates, GIS Program, May 12, 2000.

FIGURE 2

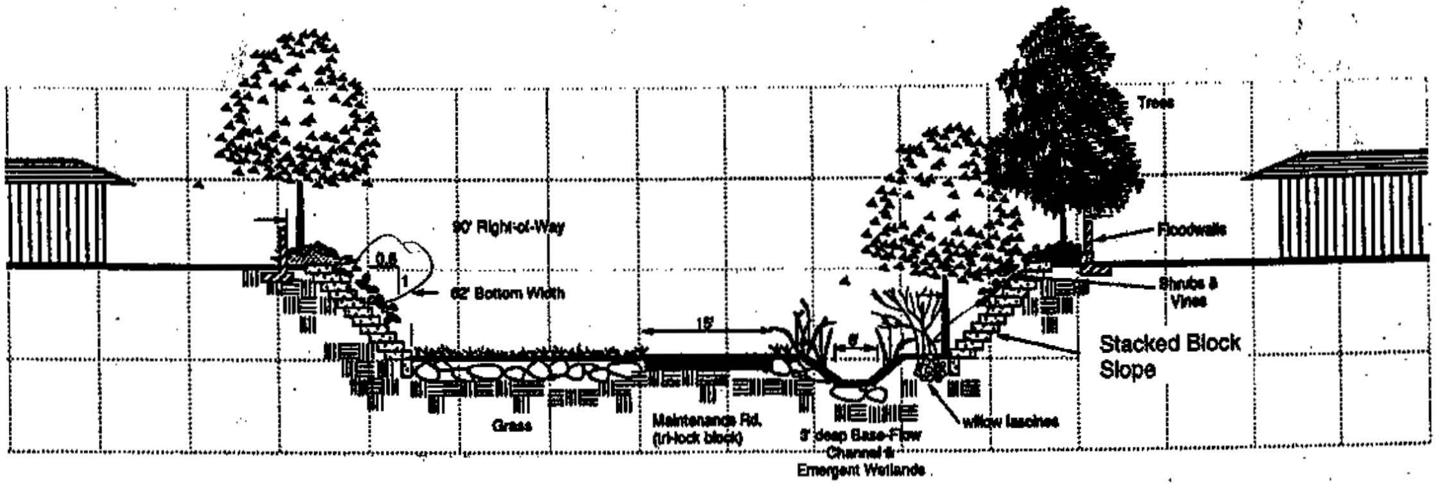
PROJECT SITE AND REACH INDEX



SOURCE: NRCS, 1997

LOWER SILVER CREEK WATERSHED PROJECT
1998 PLAN UPDATE INITIAL STUDY/ENVIRONMENTAL ASSESSMENT

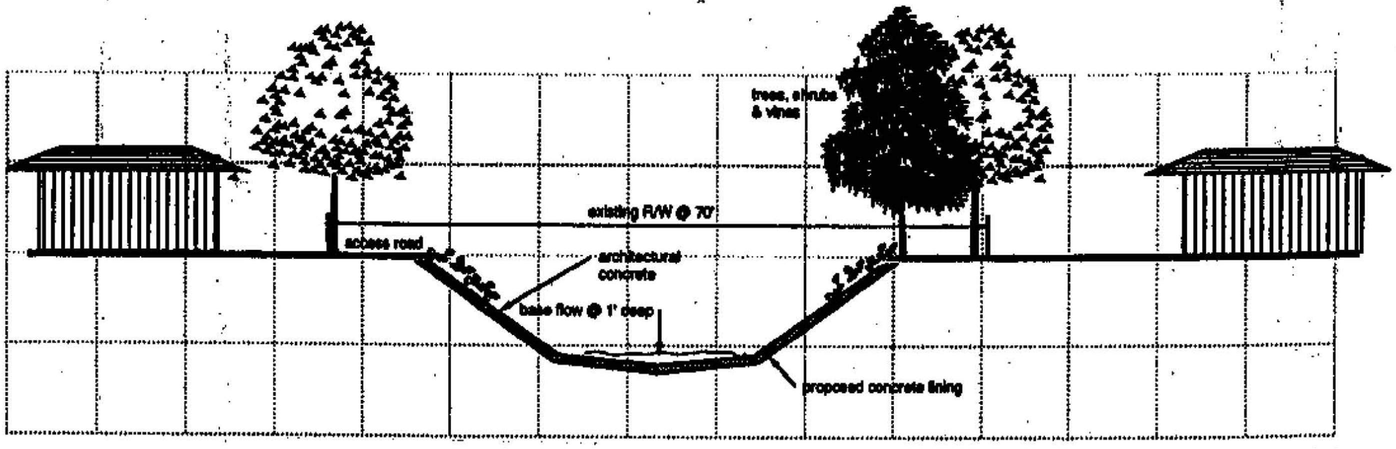
FIGURE 3: TWO-STAGE VEGETATED EARTHEN CHANNEL



SOURCE: NRCS, 1997

LOWER SILVER CREEK WATERSHED PROJECT
1998 PLAN UPDATE INITIAL STUDY/ENVIRONMENTAL ASSESSMENT

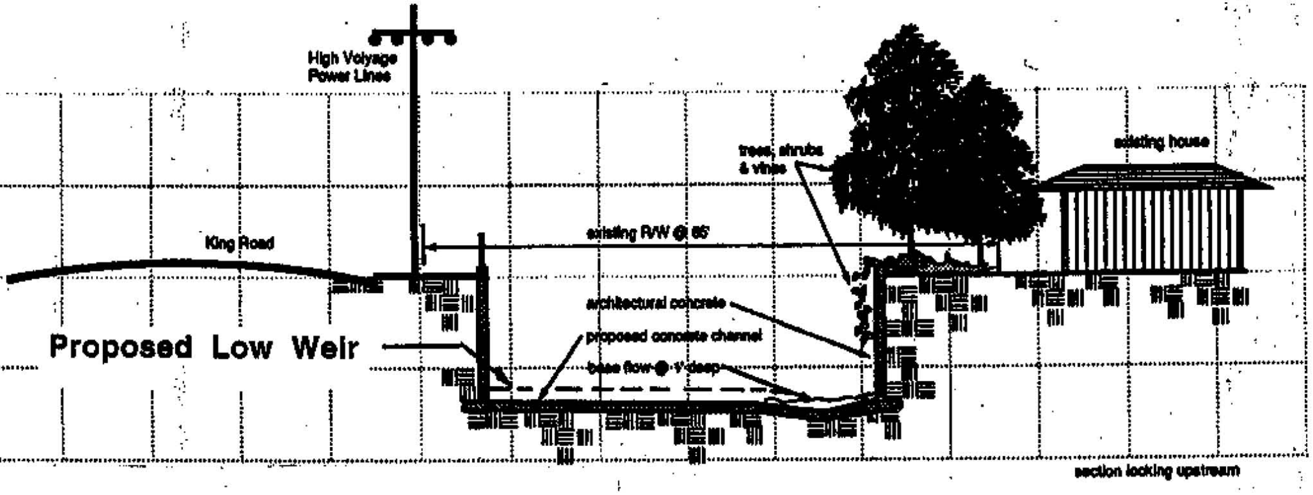
FIGURE 4: VEGETATED HYBRID BLOCK WALL CHANNEL



SOURCE: NRCS, 1997

LOWER SILVER CREEK WATERSHED PROJECT
1998 PLAN UPDATE INITIAL STUDY/ENVIRONMENTAL ASSESSMENT

FIGURE 5: CONCRETE-LINED TRAPEZOIDAL CHANNEL



SOURCE: NRCS, 1997

LOWER SILVER CREEK WATERSHED PROJECT
1998 PLAN UPDATE INITIAL STUDY/ENVIRONMENTAL ASSESSMENT

FIGURE 6: CONCRETE-LINED RECTANGULAR CHANNEL

The 1983 Recommended Plan, as modified by the 1998 Plan Update, would provide a riparian and/or upland corridor for wildlife adjacent to Lower Silver Creek, and a defined low-flow channel for all new channel work between Lake Cunningham and Coyote Creek. A total of approximately 14 acres of riparian and/or upland habitat would be planted, including vegetation to shade the low-flow channel. A 5-foot drop structure proposed in the 1983 Recommended Plan would not be built because it would prevent fish passage. Instead, two structures, one about 2.5 feet high and the other 2.0 feet high, may be smaller in height, but would be constructed near the confluence of Lower Silver and Coyote creeks. Both drop structures would incorporate low-flow notches and fish resting pools. Additional pools and riffles would be installed in the channel invert.

Construction of the project would occur in phases. In general, contracts would be issued for construction to progress from the downstream reaches to upstream reaches. At each reach, typical construction phases would begin with clearing and grubbing of the channel. This phase would be followed by earthwork including excavation and other heavy earth-moving activities. The next phase would include installation of the proposed channel improvements. The final phase involves revegetation and planting. Contractors would locate and store construction equipment and other construction facilities at staging areas along the reaches. The locations for staging would be determined by the contractors under independent negotiation with the neighboring land owners. Staging would not be allowed to occur in parks along the creek, or within the creek banks.

It is anticipated that construction of the project would occur over two construction seasons--from as early as April 15 (depending on breeding bird surveys) to October 15, beginning in April 2001. The preliminary schedule would include construction of project Reaches 1 through 3 during the 2001- 2002 construction season (under two separate contracts) and construction of project Reaches 4 through 6 under two separate contracts from 2002 to 2003.

1.5 BEST MANAGEMENT PRACTICES (BMPs)

Best management practices (BMPs) are routine methods, measures, or practices that avoid, reduce or minimize a project's effects on various resources. BMPs include, but are not limited to, structural and nonstructural controls and operation and maintenance procedures. BMPs can be applied before, during, and after activities to reduce or eliminate environmental effects. BMPs are part of the project design and/or constitute routine procedures of the District. In contrast, mitigation measures are developed separate from the project design to address specific significant environmental impacts.

The modifications to the 1983 Recommended Plan do not result in new significant impacts or increase the severity of impacts (See **Section 3.0 and 4.0**). The BMPs listed in Table 3 are not for potentially significant effects caused by the changes to the 1983 project (See **Section 3.0 and 4.0**). These BMPs are accepted standards of practice and are included in the 1983 Recommended Plan, as modified by the 1998 Plan Update to reduce the construction impacts identified as being significant and unavoidable in the 1983 FEIR/FEIS to less-than-significant levels. The BMPs further reduce less-than-significant impacts caused by the changes to even lower impact levels as part of the District's commitment to environmental stewardship. In addition to the BMPs listed herein, work can also be performed using BMPs as listed in the *California Storm Water Best Management Practice Handbook for Construction Practices* (Camp, Dresser, McKee et al., 1993) and the District's own Best Management Plan, which is developed as part of the application to the S. F. Bay Regional Water Quality Control Board (SF RWQCB) for work affecting water quality. Some of the measures noted in Table 3 were elements of previously approved Best Management Plans. Additional sources for BMPs are the *Erosion and Sediment Control Field Manual* published by the SF RWQCB (1999), the Bay Area Stormwater Management Agencies Association: Operational Permits Committee Flood Control Maintenance Manual (BASMAA/OPC 2000), the District's standard provisions for construction activities (SCVWD, 1999a), and the Bay Area Air Quality Management District's CEQA Guidelines (BAAQMD, 1999).

The BMPs included in Table 3 would be incorporated into work plans for Lower Silver Creek, as appropriate. The BMPs listed in Table 3, the District's Best Management Plan and the BMPs contained in the referenced documents, should be viewed as a menu of options available to District personnel to select from as being the most appropriate for a particular location and set of problems. In addition, the most current District protocols will be used. Examples of protocols that may be periodically updated are the District's breeding bird survey, sediment sampling plans, water quality testing and monitoring plans. Monitoring and reporting are elements of the District's Best Management Plan.

1.6 OTHER PUBLIC AGENCIES WHOSE APPROVAL IS REQUIRED

- City of San Jose/Santa Clara County
    - encroachment permits
- Union Pacific Railroad
    - encroachment permit
- California Department of Transportation
    - encroachment permit
- S. F. Bay Regional Water Quality Control Board
    - Section 401 Water Quality Certification
    - Waste Discharge Requirement
- California Department of Fish and Game
    - Section 1601 Streambed Alteration Agreement
- U.S. Army Corps of Engineers
    - Individual Permit (Public Notice released September 1, 1999; See **Subsection 7.8.2**)
- U.S. Fish and Wildlife Service/National Marine Fisheries Service
    - Threatened and endangered species consultation (to occur in conjunction with the U. S. Army Corps Engineers permitting process)

1.7 ORGANIZATION OF THE INITIAL STUDY/NEGATIVE DECLARATION AND THE ENVIRONMENTAL ASSESSMENT

Section 2.0 describes the surrounding land use and the project setting. **Section 3.0** is the Environmental Checklist. **Section 4.0** is the environmental evaluation of the differences in the 1983 Recommended Plan, as modified by the 1998 Plan Update. **Section 5.0** lists contributors to this document, and **Section 6.0** lists references used in the preparation of this document. **Section 7.0** discusses additional considerations as required by the National Environmental Policy Act (NEPA). Appendix A contains the public comments received and responses.

Table 3
Best Management Practices Incorporated Into Project

Channel Diversion Structures and Dewatering	
1.	If water is present, diversion structures (which can be made of various materials) are constructed. Depending on the channel configuration, water is allowed to either continue flowing downstream or is diverted around the work site in a pipe (pumped or by gravity) or open channel, and discharged in a non-erosive manner (e.g., gravel or vegetated bars, on hay bales, on concrete, or in storm drains when equipped with filtering devices, etc.). Sumps or basins may also be used to collect water, where appropriate (e.g., in channels with low flows). Water diversion structures allow the District to isolate the work area, thereby avoiding or minimizing downstream water quality impact. Where feasible and appropriate, diversion structures are installed on concrete sections of the channels or are constructed of materials other than imported earthen fill. If earth is used, the downstream and upstream faces may be covered by a protected covering (e.g., plastic or fabric) to minimize erosion.
2.	In conjunction with diversion structures, pumps or gravity-fed pipe systems are used to dewater sites. This BMP avoids or minimizes downstream water quality impacts. It may also be necessary to dewater work areas because of groundwater seepage. In the event this situation occurs, the District will pump the water outside of the work area into infiltration basins made from straw bales or silt fences for example, or into a fabric bag which is capable of collecting silt as clean water filters out from all sides.
3.	When diversion structures are removed, to the extent practicable, the ponded flows will be directed into the low-flow channel within the work site to minimize downstream water quality impacts.
Turbidity - Erosion Control	
4.	If high levels of ground water in a work area are encountered, the water is pumped out of the work site. If necessary, the water will be directed into specifically constructed infiltration basins or into holding ponds, or onto areas with vegetation to remove sediment prior to the water re-entering a creek, thereby minimizing water quality impacts.
5.	Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
6.	Replant vegetation in disturbed areas as quickly as possible.
Water Quality Protection - General	
7.	Silt barriers, such as straw bales and silt fences or basins are installed, as necessary,downstream of the work sites to avoid or minimize water quality impacts.

Table 3 (Continued) Best Management Practices Incorporated Into Project	
8.	Wet sediments may be stockpiled (outside of a live stream) so water can drain or evaporate before removal to minimize water quality impacts or may be stockpiled within the channel as long as decanted water is not allowed to enter the live stream.
9.	No fueling, cleaning, or maintenance of vehicles or equipment takes place within channel banks to avoid the release of deleterious substances into surface waters.
10.	A Water Quality Monitoring Plan will be implemented. Monitoring and reporting are elements of this plan.
11.	Trucks may be lined with an impervious material (e.g., plastic), or the tail gate blocked with dry dirt or haybales, for example, or trucks may drain excess water by slightly tilting their loads and allowing the water to drain out. Water is not allowed to drain directly into channels (outside of the work area) or onto city streets without providing water quality control measures. This BMP avoids or minimizes the water quality impacts.
12.	Streets are cleaned of mud and/or dirt by street sweeping, as necessary, and not by hosing down the street. This BMP avoids or minimizes water quality impacts (also air quality impacts).
Fishery and Aquatic Resources BMPS	
13.	Temporary fills such for access ramps, diversion structures, or cofferdams are completely removed upon finishing the work, except where clean river run cobble/gravel is used, where some or all of the material may be left in the channel to provide a substrate for aquatic species.
14.	In conjunction with diversion structures, pumps or gravity-fed pipe systems are used to divert upstream flows around the work area to downstream of the work area. By diverting water, the District avoids affecting downstream habitat.
15.	Streamflows will be routed into the low-flow channel instead of allowing water to flow over the entire channel bottom when flows are reintroduced following construction of a reach. This minimizes downstream water quality impacts and fish passage impacts.

Table 3 (Continued) Best Management Practices Incorporated Into Project	
16.	Where water is to be diverted, prior to the start of work or during the installation of water diversion structures, native aquatic vertebrates will be captured in the work area and transferred to another reach as determined by our Fisheries Biologist in consultation with DFG. Aquatic invertebrates are not transferred (other than incidental catches) because of their anticipated abundance and colonization after completion of the repair work. This BMP minimizes impacts to native aquatic vertebrates. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
17.	Project areas will be checked by District biologists for breeding birds prior to starting work. In areas where breeding birds are likely to occur, work may be delayed until after July 1, which is typically the end of the breeding season; thus, avoiding or minimizing impacts to breeding birds. Work may occur earlier than this date if surveys by District biologists do not find breeding birds on site or if an adequate buffer, as determined by a District biologist, can be established between construction activities and nests. If breeding birds are found, construction may be delayed until after breeding is completed. Work may occur if an adequate buffer, as determined by a District biologist, can be established between the maintenance activity and nests. This BMP avoids or minimizes impacts to breeding birds.
18.	To avoid potential impacts to non-avian listed species or species of concern such as California red-legged frogs (RLF) and western pond turtles, and avian species of concern such as burrowing owls, immediately prior to project implementation, a District biologist will walk the reach to ensure that these species are not present on-site. If turtles are found, District biologists will remove them to an area outside of the project limits. If RLF are found, the project will not commence until authorization is received from the USFWS. If burrowing owls are found, then District biologists will confer with DFG on appropriate measures and work will not proceed until an agreement is reached with DFG.

Table 3 (Continued)
Best Management Practices Incorporated Into Project

Habitat Protection BMPs	
19.	Existing mature native trees would be relocated where feasible. This would minimize the time needed for each reach to regain full habitat value and function for riparian birds.
20.	Construction equipment access and staging would remain within the reach currently under construction, and a buffer zone would be established to minimize disturbance to wildlife in the adjacent reach.
Traffic Control BMPs	
21.	Construction signs are posted at job sites warning the public of construction work and to exercise caution. When necessary, a person is provided for traffic control. A lane may be blocked off to allow for trucks to pull into and out of the access points. This BMP avoids or minimizes traffic impacts.
Noise and Air Quality BMPs	
22.	In general, work is conducted during normal working hours. Extending weekday hours and working weekends may be necessary to complete some projects. Internal combustion engines will be equipped with adequate mufflers. Excessive idling of vehicles will be prohibited. This BMP avoids or minimizes disturbances to the surrounding neighborhoods.
23.	Vehicles on non-paved areas would be limited to a speed of 10 miles per hour. Watering of the access roads may also occur to control dust.
27.	Cover all trucks hauling soil, sand, and other loose materials, *or* require all trucks to maintain at least two feet of freeboard.
28.	Water all active construction areas at least twice daily.
29.	Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas.

Table 3 (Continued)
Best Management Practices Incorporated Into Project

30.	Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
31.	Replant vegetation in disturbed areas as quickly as possible.
32.	Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.
Cultural Resources BMPs	
33.	If cultural resources are found, work will stop, the appropriate agencies notified, the find evaluated for significance, recorded, and, in the case of human remains with concurrence from the Most Likely Descendant (a Native American authorized to represent local tribes), reinterned in an area that is secure.

SECTION 2.0 SURROUNDING LAND USE AND PROJECT SETTING

The following surrounding land use and project setting description is from the 1983 EIR/EIS (pp. 7 - 11) except where otherwise noted.

The Lower Silver Creek Watershed covers an area of about 43 square miles (27,700 acres). This includes Thompson Creek, with a watershed of about 20.9 square miles (13,400 acres). The Lower Silver Creek Watershed is in the San Francisco Subregion of the California Water Resources Region. Lower Silver and Thompson creeks are in the eastern portion of the City of San Jose and in the unincorporated area of the County of Santa Clara. San Jose is at the southern end of San Francisco Bay within the Santa Clara Valley.

The watershed is approximately five miles wide at its downstream end and gradually narrows to a width of about one mile at its upstream end. The average width of the 12-mile long watershed is about four miles. The watershed is bounded on the east by the Diablo Range. The upper regions of the watershed are located in steep foothills while the lower region is gently sloping. The lower and flatter area, which constitutes about one-third of the watershed, is urbanized. The remainder of the watershed generally is open space, but is being urbanized rapidly. The plant cover in this open space consists of scattered oaks with underlying shrubs and grass. Riparian vegetation is evident along most of the foothill streams.

The watershed includes many subwatersheds of tributary creeks, with the largest being Thompson Creek. Other tributaries, from west to east, are Miguelita, North Babb, South Babb, Flint, and Ruby creeks. Thompson Creek's tributary streams are Norwood, Quimby, Fowler, Evergreen, and Yerba Buena creeks. All of these streams are intermittent and most have been enlarged where they enter the valley floor. Thompson Creek originates in the Diablo Range foothills at an elevation of about 2,300 feet and flows northwest to its confluence with Silver Creek, approximately one mile upstream of Lake Cunningham. Silver Creek originates at an elevation of about 180 feet and flows north to the Lake Cunningham area. Downstream of Lake Cunningham, the man-made earthen and concrete channel of Lower Silver Creek flows northwest to its confluence with Coyote Creek at an elevation of about 60 feet above mean sea level.

Annual precipitation averages 14 inches in the Santa Clara Valley with up to 18 inches in the mountainous areas in the eastern part of the watershed. The area has a Mediterranean climate with moderate temperatures and light to moderate precipitation. Ninety percent of the annual rainfall occurs during the months of November through March. Flooding is most severe when a series of large Pacific storms pass through the watershed in succession. One of the largest floods on record, the 1955 flood, was caused by such a series of storms.

Extremes in temperature range from about 20 to 110 degrees Fahrenheit. The average winter lows are in the middle 30s, and the average summer highs are in the 80s. The average growing season is about 336 days.

Lake Cunningham is the location of an historic wetland (USGS, 1961). Soils in the Lake Cunningham basin are composed of very deep, level, and poorly drained silty clay soils of the Sunnyvale, Castro, and Clear Lake associations. The soils along Lower Silver Creek are Clear Lake clay, Pleasanton loam, and Sunnyvale silty clay; they have poor surface drainage and slow sub-surface drainage.

The San Francisco Bay Area has a long history of seismic activity and related earth movements. The Hayward, Quimby, Evergreen, Aguague, Clayton, Crossley, and Silver Creek faults pass through the project area watershed. The Calaveras and San Andreas faults are located nearby to the east and west, respectively. Known historically active faults are the Hayward, Crossley, Calaveras, and San Andreas faults. Measurements of accumulated strain across major Bay Area faults (San Andreas, Hayward and Calaveras) indicate major earthquakes will occur every 50 to 100 years. The maximum forces may be comparable to those experienced in the San Francisco earthquake of 1906. Since the 1983 EIR/EIS was approved, the 1989 Loma Prieta earthquake occurred and the maximum forces may be comparable to that earthquake event (USGS, 1990).

Much of the western half of the watershed is within the corporate limits of the City of San Jose and is intensively urbanized. This area comprises about 12,200 acres and contains a mix of land uses including single-family homes, apartments, commercial and industrial uses, and parks. The largest single urban land use is single-family residential. Additionally, wildlife habitat and visual quality of the watershed had been reduced because of the urbanization of 95 percent of the floodplain. The upland area on the eastern and southern fringes of the watershed is mostly rangeland. This second major region comprises approximately 12,600 acres and its dominant characteristics are its steep slopes and inaccessibility. There are relatively few residences or roads in this area.

The third major region within the watershed is an area with gentle slopes that is referred to as the transition zone between the urban and upland zones. The transition zone contains 2,900 acres and is an area that is in the process of being converted from agricultural to urban use. Between 1976 and 1980, 20 percent of the area was converted to residential land use. In 1976, there were 312 acres of urban land and 2,588 acres of agricultural land, of which 1,530 acres were orchards or vineyards. According to ABAG 2000, an approximately 40 percent increase in population for the San Jose metropolitan area has occurred between 1980 and the present, suggesting that the proportion of urban lands has expanded and/or the density of land uses has increased. Thus, compared to the 1983 EIR/EIS, the amount of urban land affected by flooding in Lower Silver Creek has increased and the amount of vacant land has decreased slightly.

Plant communities such as chaparral, oak woodland, grassland, and riparian woodland exist in the foothills of the upper watershed. These communities typically support a high diversity of wildlife. However, the lower watershed is highly urbanized and provides very limited habitat for wildlife. The remaining habitat is restricted to scattered riparian plant communities along the stream systems. Many species of birds typically use this type of habitat for nesting and foraging.

The following discussion (until the end of this section) provides an update to the project setting with respect to biological resources, specifically to the endangered and threatened plants and animals and fisheries sections of the 1983 EIR/EIS (p. 25).

In 1983, only two candidate plant species were identified by the U.S. Fish and Wildlife Service (USFWS) as potentially occurring in the area: Contra Costa baeria (a goldfield) and Mt. Hamilton thistle (p. 25). The changes to sensitive plant species reported to occur in the San Jose East USGS 7.5-minute quadrangle (greater project area) since 1983 include four plant species that are federally classified as endangered: the Metcalf Canyon jewel-flower, Contra Costa goldfields, robust spineflower and the Santa Clara Valley dudleya as well as several additional species of concern. The jewel-flower favors relatively open areas in dry grassy meadows and roadcuts on serpentine soils, while the dudleya grows on rocky outcrops in grasslands. The robust spineflower favors sandy terraces and bluffs of coastal dunes. The federally endangered Contra Costa goldfields is reported to occur in the project vicinity, however, this species grows in vernal pools. None of the habitats required by the four plant species occur in the project area, making it highly unlikely that these species are present. No rare, threatened or endangered plant species nor potential habitat for their occurrence were observed during 1996, 1997 and 1998 field surveys conducted by the NRCS and EIP biologists for this study.

The only wildlife species noted in the 1983 EIR/EIS was the San Joaquin kit fox (p. 25). The changes to sensitive wildlife (special-status) species reported to occur in the Lower Silver Creek project vicinity since 1983 include: the California red-legged frog (federally threatened), the San Joaquin kit fox (federally endangered and state threatened), the Bay checkerspot butterfly (federally threatened), the California tiger salamander (federal Candidate Species and CDFG Species of Special Concern), and the western burrowing owl (federal Species of Concern and CDFG Species of Special Concern). A California red-legged frog survey conducted by NRCS in the project area in Fall 1996 and Spring 1997 found no red-legged frogs (White, 1997). Additionally, California red-legged frogs have not been reported to the California Natural Diversity Data Base (CNDDB) for the project area. Table 4 provides a summary of special status species potentially occurring in the project area. Based on the 1996 and 1997 surveys, the U.S. Fish and Wildlife Service (USFWS) determined that take of the California red-legged frog is not likely to occur at the project site and, therefore, the project is in compliance with the federal Endangered Species Act (White, 1997). Habitat for the other special status species does not occur in the project area. The urban setting precludes foraging and denning habitat for San Joaquin kit fox and grassland habitat for California tiger salamander. All habitat for the bay checkerspot butterfly exists on serpentine-derived soils, which support the butterfly's larval food plants, as well as nectar sources for adults. Serpentine soils are not found within the project limits. Of the 14 species of bats listed as species of concern by the CDFG, none are listed on the CNDDB for this area.

Much of Lower Silver Creek has been modified over the last 95 years, with the current configuration of the flood control channel taking shape during the 1950's, 1970's and 1980's. Survey data from 1895 indicates that Thompson (then called Dry Creek) and Silver creeks flowed into a large marshy area that is now the location of Lake Cunningham. According to the map there were no outlets from this marsh, a situation that would have precluded access by anadromous salmonids (Figure 7). Other changes to the historic drainage patterns include modifications to the order in which South Babb, Miguelita, and Penitencia creeks enter Coyote Creek. Historically, it appears that South Babb Creek was a tributary to Miguelita Creek which in turn was a tributary to Penitencia Creek. Currently, Miguelita Creek has been separated from Penitencia Creek and is now a tributary to Lower Silver Creek. South Babb Creek once joined North Babb Creek about a half-mile upstream of the present day North Babb-Lower Silver junction. Now it is a tributary to Lower Silver Creek. The channel between Lake Cunningham and the confluence with North Babb Creek has been recently created (in terms of fish evolution timescale) (Figure 7). Additionally, Thompson and Silver creeks were combined just above Lake Cunningham and bypass the lake as indicated on the USGS 7.5-minute quadrangle, San Jose East (USGS, 1980). The resulting flows have deposited sediment into this channel and covered the drop structure at Quimby Road.

(Text continues on p. 2-10)

Table 4
Special status species that potentially occur in or near the Lower Silver Creek project area

	Status [1]							
Species Name	**Federal**	**State**	**CDFG [2]**	**CNPS [3]**	**Typical Habitat**	**Habitat Present**	**Observed**	**Potential Project Effect**
[redacted]								
Edgewood Blind Harvestman *Calicina (Sitalcina) minor*	Special Concern	None	None	N/A	Open grasslands in areas of serpentine bedrock where permanent springs create moist habitat underneath rocks.	No	No	None
Bay Checkerspot Butterfly *Euphydryas editha bayensis*	Threatened	None	None	N/A	Restricted to native grasslands on outcrops of serpentine soil the the vicinity of San Francisco Bay.	No	No	None
[redacted]								
California Tiger Salamander *Ambystoma californiense*	Candidate	None	Special Concern - Protected	N/A	Annual grasslands and understory of hardwood habitats. Breeding typically associated with temporary pools and ponds (Jennings and Hayes 1994).	No	No	None

Table 4 (Continued)
Special status species that potentially occur in or near the Lower Silver Creek project area

	Status [1]							
Species Name	**Federal**	**State**	**CDFG [2]**	**CNPS [3]**	**Typical Habitat**	**Habitat Present**	**Observed**	**Potential Project Effect**
[redacted]								
Burrowing Owl - Burrow Sites *Athene cunicularia*	Special Concern	None	Special Concern	N/A	Habitats with low growing vegetation (grasslands, scrub, deserts). Dependant on burrowing mammals, especially California ground squirrels.	No	No	None
[redacted]								
San Joaquin Kit Fox *Vulpes macrotis mutica*	Endangered	Threatened	None	N/A	Annual grasslands, loose sandy soils required for burrowing and suitable prey base.	No	No	None
[redacted]								
Contra Costa Goldfields *Lasthenia conjugens*	Endangered	None	None	1B	Open grassy depressions in valley and foothill grassland and vernal pools.	No	No	None

Table 4 (Continued)
Special status species that potentially occur in or near the Lower Silver Creek project area

	Status [1]							
Species Name	**Federal**	**State**	**CDFG [2]**	**CNPS [3]**	**Typical Habitat**	**Habitat Present**	**Observed**	**Potential Project Effect**
Delta Tule-pea *Lathyrus jepsonii* var *jepsonii*	Special Concern	None	None	1B	Edges of freshwater and brackish marshes, most common in the Sacramento/San Joaquin River Delta.	No	No	None
Fragrant Fritillary *Fitillaria liliacea*	Special Concern	None	None	1B	Valley and foothill grasslands, typically over serpentine soils although the soil type varies.	No	No	None
Hairless Popcorn Flower *Plagiobothrys glaber*	None	None	None	1A	Coastal salt marshes and alkali meadows.	No	No	None
Hall's Bush Mallow *Malacothamnus halli*	None	None	None	1B	Chaparral, some populations on serpentine soils.	No	No	None
Metcalf Canyon Jewel-Flower *Streptanthus albidus* ssp *albidus*	Endangered	None	None	1B	Open areas in dry valley and foothill grasslands over serpentine soils.	No	No	None

Table 4 (Continued)
Special status species that potentially occur in or near the Lower Silver Creek project area

	Status [1]							
Species Name	**Federal**	**State**	**CDFG [2]**	**CNPS [3]**	**Typical Habitat**	**Habitat Present**	**Observed**	**Potential Project Effect**
Mt Hamilton Thistle *Cirsium fontinale* var *campylon*	Special Concern	None	None	1B	Drainages through serpentine soils in woodland, chaparral, and grassland habitats.	No	No	None
Robust Spineflower *Chorizanthe robusta* var *robusta*	Endangered	None	None	1B	Sandy terraces, bluffs, and loose sand of coastal dunes, coastal scrub and foothill woodlands.	No	No	None
Santa Clara Red Ribbons *Clarkia concinna* ssp *automixa*	Special Concern	None	None	1B	On slopes near drainages within foothill woodlands and chaparral.	No	No	None
Santa Clara Valley Dudleya *Dudleya setchellii*	Endangered	None	None	1B	Rocky serpentine outcrops including exposed rocks within grassland or woodlands.	No	No	None

Footnotes:

[1] Endangered and threatened are a species status under the California or Federal Endangered Species Act, Federal species of concern and candidate species do not receive any statutory protection under the Federal ESA.

[2] California Department of Fish and Game. Species designated as Species of Concern by CDFG are to be mitigated for under CEQA. A protected designation indicates that these species are fully protected under the Fish and Game Code and cannot be taken or possessed without a permit from the

Fish and Game Commission or CDFG.

[3] California Native Plant Society. List 1A are species believed to be extinct within California. List 1B are species that are rare or endangered in California and elsewhere in their range.

[4] California red-legged frogs were not documented within the project area during a protocol survey and they are not recorded in the CNDDB. For these reasons the USFWS determined that take of the California red-legged frog is not likely to occur at the project site and therefore the project is in compliance with the ESA (White, 1997).

References:

CNDDB (California Natural Diversity Data Base) 2000. Commercial version, information dated 01/05/2000. California Department of Fish and Game

Helvey, M., 2000. Letter to Jeffrey R. Vonk, NRCS, stating that steelhead are not known to occur in the reaches of Lower Silver Creek affected by the proposed flood protection project.

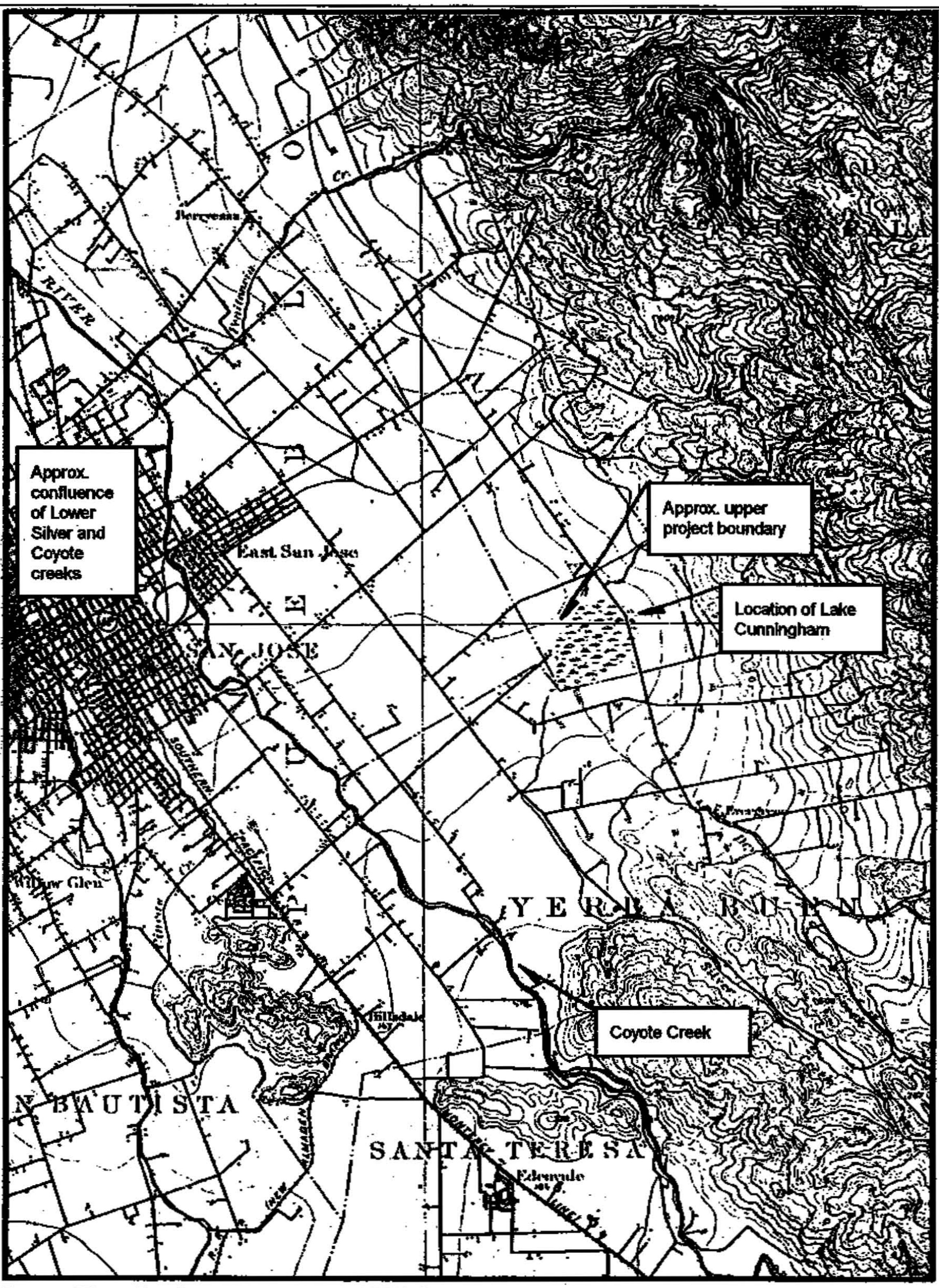
Jennings, M.R. and M.P. Hayes, 1994. Amphibian and reptile species of special concern in California. Final Report, Inland Fisheries Division, California Department of Fish and Game. 255 pp.

USFWS 1994.* Letter to Henry C. Wyman, Acting State Conservationist Soil Conservation Service regarding a species list for the Proposed Lower Silver Creek Watershed Project, San Jose, Santa Clara County, California. Dated April 12, 1994. 2pp+enclosures.

White, W.S. 1997. Letter from Wayne White, USFWS Field Supervisor to Robert Snieckus, NRCS, regarding potential impacts to California red-legged frogs from the proposed Lower Silver Creek Watershed Project. Dated August 6, 1997. USFWS File Number 1-1-97-TA-1867. 1p.

Williams, D.F. 1986. Mammal species of special concern in California. Administrative Report 86-1, Wildlife Management Division, California Department of Fish and Game. 112 pp.

* Letters sent to USFWS and NMFS from NRCS seeking written verification that the project remains in compliance with the Federal Endangered Species Act on February 11, 2000.


Approx. confluence of Lower Silver and Coyote creeks
Approx. upper project boundary
Location of Lake Cunningham
Coyote Creek
East San Jose
SAN JOSE
Berryessa
RIVER
Willow Glen
Hillsdale
YERBA BUENA
N BAUTISTA
SANTA TERESA
Edenvale

Lower Silver Creek area, portion of USGS San Jose topographic map based on survey data from 1895, contour interval 25 feet, linear scale approximately 1:125,000 (USGS, 1897).

SOURCE: USGS, 1897

FIGURE 7: HISTORIC MAP OF LOWER SILVER CREEK

On page 25 of the 1983 EIR/EIS, only mosquito fish, fathead minnows, goldfish, roach, three-spine stickleback and hitch were reported in Lower Silver Creek. The 1983 EIR/EIS concluded that "fisheries is not a significant resource ..." and that the "species present will continue to inhabit Lower Silver Creek after implementation of any proposed project actions."

Relatively recent inventories of fisheries resources in the Coyote Creek Watershed tends to reflect their historic accessibility to salmonids (i.e., salmonids are found in the creeks with historic access to Coyote and Penitenica creeks, which do not include Lower Silver Creek–see p. 2-3). According to Leidy (1984, 1999), steelhead *(Oncorhynchus mykiss)* were captured in Penitencia and upper Coyote creeks. None were found during survey work on Lower Silver or South Babb creeks (Leidy, 1984). The Santa Clara Valley Water District's fisheries biologists and an environmental planner toured the project area in the summer of 1997 and determined that the existing habitat conditions would not support steelhead. Lower Silver Creek would prove hostile to steelhead in the summer (J. Abel, pers. comm.). According to EIP's wildlife biologist, it is extremely unlikely that steelhead are in Lower Silver Creek (D. Eibert, pers. comm.). In a letter to the NRCS from Mark Helvey of the National Marine Fisheries Service (NMFS), NMFS stated that steelhead are not known to occur in the reaches of Lower Silver Creek affected by the proposed flood protection project (Helvey, 2000). Overall species diversity for Lower Silver Creek was relatively low with only five species (four native and one introduced) being reported (Table 5).

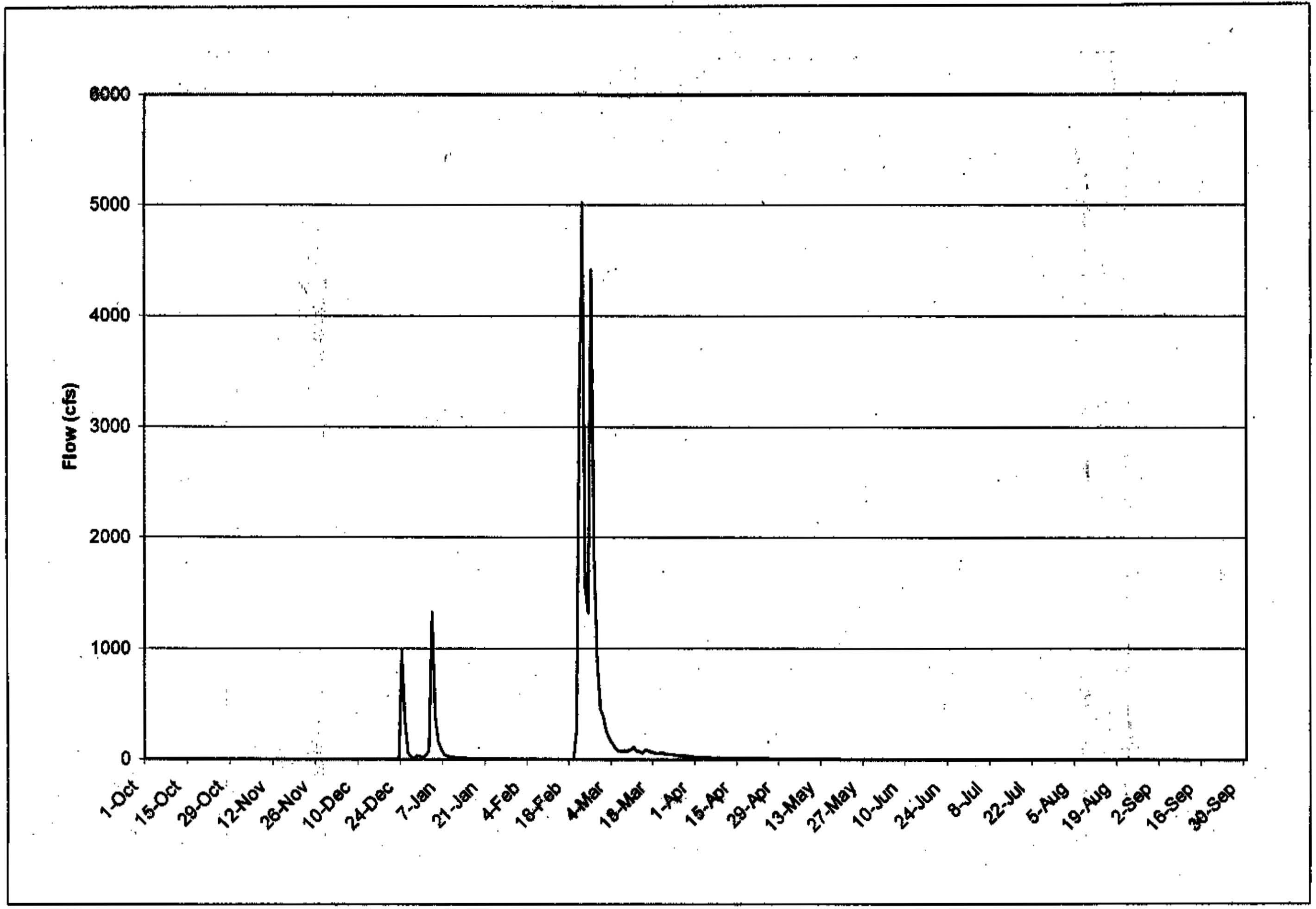
Table 5
Fish species reported from the Silver Creek watershed

Common Name	Scientific Name	Native/Introduced	Source
California Roach	*Hesperoleucus symmetricus*	Native	Leidy, 1984 EIP, 2000
Sacramento Sucker	*Catostomus occidentalis*	Native	SCVWD, 1997
Mosquito Fish	*Gambusia affinis*	Introduced	Leidy, 1984
Three-spine stickleback	*Gasterosteus aculeatus*	Native	Leidy, 1984 SCVWD, 1997
Prickly Sculpin	*Cottus asper*	Native	Leidy, 1984

Historic streamflow data from the USGS gage (#11172000) located in Coyote Creek at San Jose (just above what is now the confluence with Lower Silver Creek) during the 1916-1917 water year provides a good indication of the naturally ephemeral nature of the system. In this particular year, flows peaked on three separate events between late December and early March. However, mean daily discharges in the interim were very low; for much of the year there was no flow in the creek (Figure 8) (USGS, 2000). The present day discharge pattern in Lower Silver Creek is expected to be essentially the same as in Coyote Creek, potentially differing slightly in the magnitude and duration of peak events. Currently streamflows in Lower Silver Creek reflect the increase in urbanization and the use of the channel for flood protection purposes. Increases in urban land use are reflected in higher peak discharges and base flow as can be seen in streamflow data from the Coyote Creek above Highway 237 gage site (#11172175) between January and September 1999 (Figure 9) (USGS, 2000).

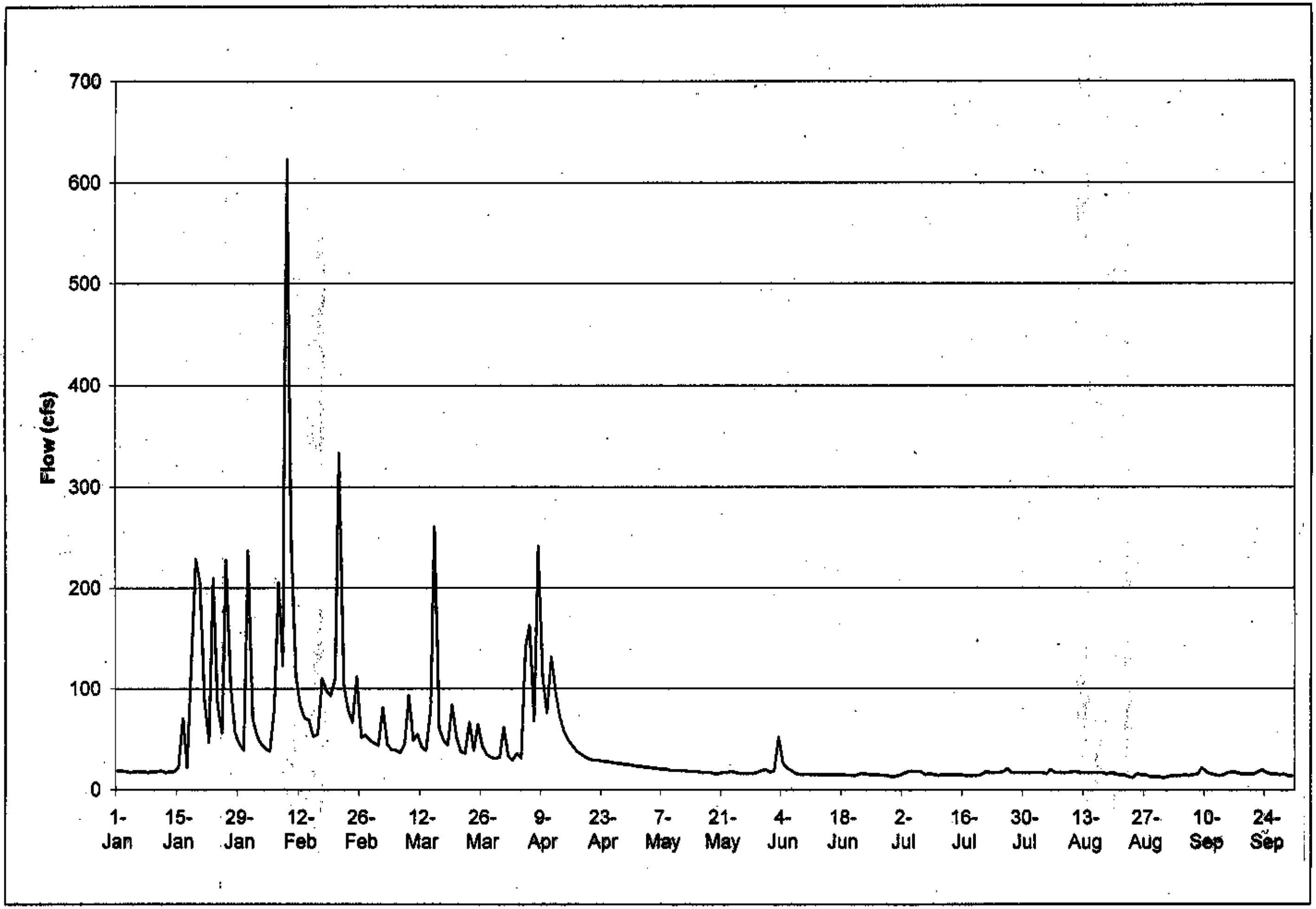
Water temperatures in Lower Silver Creek also reflect the urbanization and channelization that has occurred with the greater San Jose area. Reconnaissance surveys by District employees and EIP biologists revealed a relatively typical urban stream. There is little riparian vegetation to provide shade for the channel and the riparian habitat that does exist is very fragmented. The stream channel tends to be straightened and confined, resulting in limited pool habitat, a silt bottom, and relatively high water velocities. Spot water temperature data was collected at three locations in Coyote Creek between February and September 1995 (Figure 10). The three sites are: (1) Wooster Avenue, just above the confluence with Lower Silver Creek; (2) Kammerer Avenue, approximately in the middle of the project area; and (3) below Lake Cunningham site is at the upper end of the project area. Temperatures in Lower Silver Creek ranged from a low of 10.1°C (50.2°F) in mid-March to a high of 24°C (75.2°F) in July and August (Figure 10). Temperatures in Coyote Creek are very similar ranging from a low of 10.5°C (50.9°F) in mid-February to a high of 22°C (71.6°F) in early August (Figure 10).

There is a desire among environmental groups to 'restore' or create habitat suitable for steelhead, eventually leading to an established run of steelhead in the creek. As noted above however, that portion of Lower Silver Creek between Lake Cunningham and North Babb (which is within the project limits for the 1983 Recommended Plan, as modified by the 1998 Plan Update) did not exist prior to construction of the flood control channel. Steelhead are relatively sensitive to increased water temperatures and changes in streamflow patterns. Optimum temperatures for steelhead rearing vary depending on the stream but are generally reported to be between 7.8 and 15.6°C (46-60°F) or 13 to 21°C (55.4-69.8°F) (Leidy 1984; 1999). Steelhead can survive warmer water temperatures, up to approximately 28°C (82.4°F), but only if they are slowly acclimatized and the water is saturated with oxygen. The change in flow patterns and an increase in temperature due to urbanization (Figure 9 and 10) generally tends to favor the non-native species such as brown bullhead (*Ameiurus nebulosus*), carp (*Cyprinus carpio*), and the assorted species of sunfish and bluegill (*Lepomis* spp.).



SOURCE: USGS, 2000

FIGURE 8: COYOTE CREEK MEAN DAILY DISCHARGE, 1916-1917



SOURCE: USGS, 2000

LOWER SILVER CREEK WATERSHED PROJECT
1998 PLAN UPDATE INITIAL STUDY/ENVIRONMENTAL ASSESSMENT

FIGURE 9: COYOTE CREEK MEAN DAILY DISCHARGE, 1999

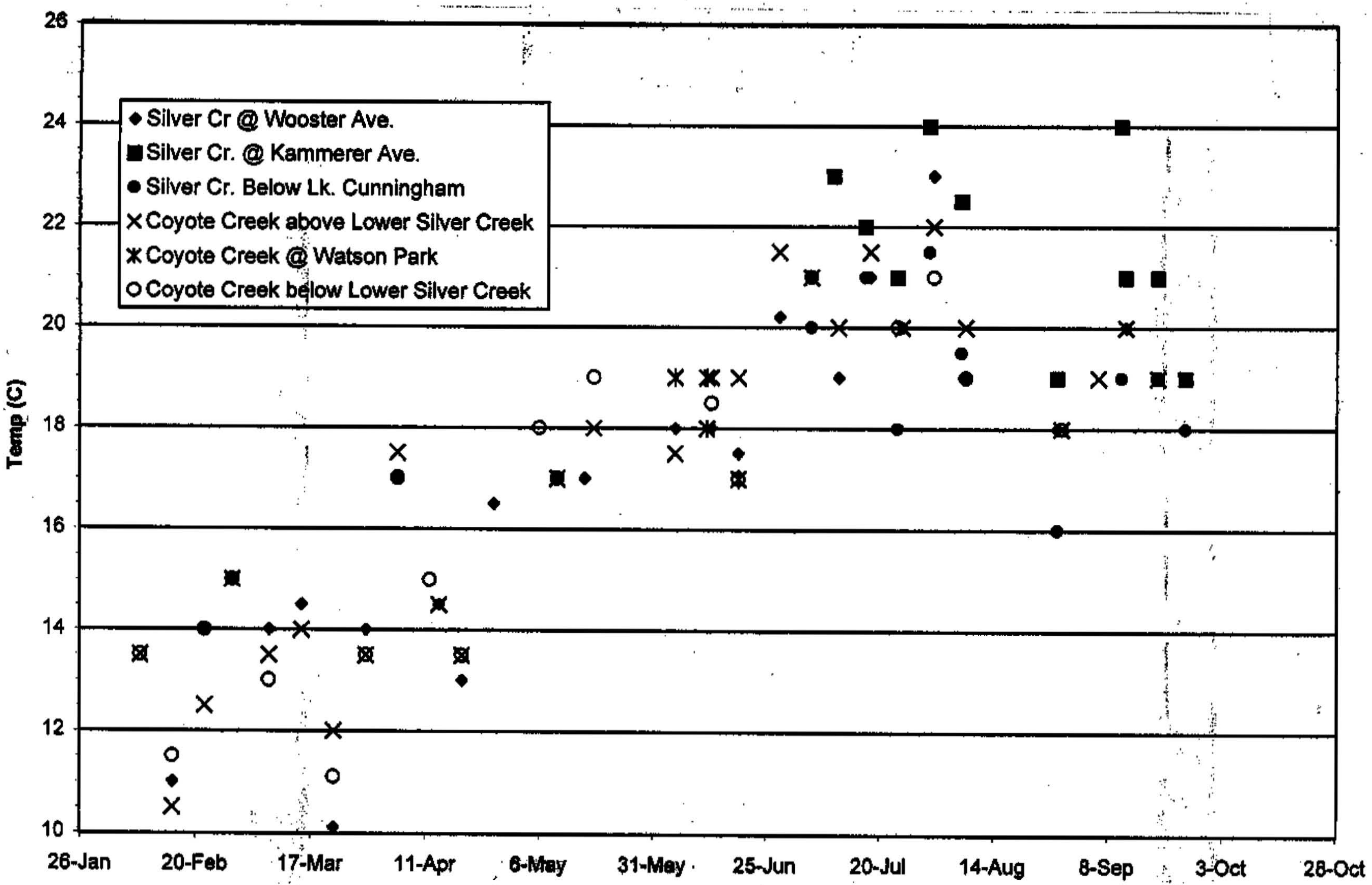


Figure 6. Spot water temperatures collected in Coyote and Lower Silver creeks, Feb-Sep1995 (SCVWD 1995).

SOURCES: SCVWD, 1995; NRCS, 1995 (unpublished)

LOWER SILVER CREEK WATERSHED PROJECT
1998 PLAN UPDATE INITIAL STUDY/ENVIRONMENTAL ASSESSMENT

FIGURE 10: SPOT WATER TEMPERATURE DATA FOR PORTIONS OF COYOTE CREEK AND LOWER SILVER CREEK

SECTION 3.0 ENVIRONMENTAL CHECKLIST FORM

3.1 BACKGROUND

1.	Project Title:	Lower Silver Creek Watershed Project 1983 Recommended Plan, as modified by the 1998 Plan Update
2.	Lead Agency Name and Address:	Santa Clara Valley Water District Coyote Creek Watershed Program 2471 Autumnvale Drive, Suite G San Jose, CA 95131
3.	Contact Person and Phone Number:	René Langis, Ph.D. (408) 586-0110 x19
4.	Project Location:	Lower Silver Creek from Coyote Creek to Lake Cunningham; City of San Jose; Santa Clara County
5.	Project Sponsor's Name and Address:	See #2 above
6.	General Plan Designation:	Not applicable
7.	Zoning:	Not applicable
8.	Description of the Project:	See **Section 1.0** of the IS/EA
9.	Surrounding Land Uses and Setting:	Various. See **Section 2.0** of the IS/EA

10. Other public agencies whose approval is required: California Department of Fish and Game California Department of Fish and Game, San Francisco Bay Regional Water Quality Control Board, State Water Resources Board, U. S. Army Corps of Engineers.

3.2 ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

None of the environmental factors listed below would be significantly affected by the modifications to the project, as indicated by the checklist on the following pages.

☐	Aesthetics	☐	Agricultural Resources	☐	Air Quality
☐	Biological Resources	☐	Cultural Resources	☐	Geology / Soils
☐	Hazards & Hazardous Materials	☐	Hydrology / Water Quality	☐	Land Use / Planning
☐	Mineral Resources	☐	Noise	☐	Population / Housing
☐	Public Services	☐	Recreation	☐	Transportation / Traffic
☐	Utilities / Service Systems	☐	Mandatory Findings of Significance		

3.3 ENVIRONMENTAL IMPACTS (Explanation of answers are found in Section 4.0-Environmental Evaluation)		Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
1.	**AESTHETICS. Would the project:**				
a)	Have a substantial adverse effect on a scenic vista?				X
b)	Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c)	Substantially degrade the existing visual character or quality of the site and its surroundings?			X	
d)	Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area			X	
2.	**AGRICULTURE RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:**				
a)	Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b)	Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c)	Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?				X
3.	**AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:**				
a)	Conflict with or obstruct implementation of the applicable air quality plan?				X
b)	Violate any air quality standard or contribute to an existing or projected air quality violation?			X	
c)	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?			X	

d)	Expose sensitive receptors to substantial pollutant concentrations?			X	
e)	Create objectionable odors affecting a substantial number of people?			X	
4.	**BIOLOGICAL RESOURCES. Would the project:**				
a)	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			X	
b)	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			X	
c)	Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?			X	
d)	Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			X	
e)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			X	
f)	Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?			X	
5.	**CULTURAL RESOURCES. Would the project:**				
a)	Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?			X	
b)	Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?			X	
c)	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			X	
d)	Disturb any human remains, including those interred outside of formal cemeteries?			X	

6.	**GEOLOGY AND SOILS. Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:**				
a)	Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
b)	Strong seismic ground shaking?				X
c)	Seismic-related ground failure, including liquefaction?				X
d)	Landslides?				X
e)	Would the project result in substantial soil erosion or the loss of topsoil?			X	
f)	Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X	
g)	Would the project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?			X	
h)	Would the project have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water.				X
7.	**HAZARDS AND HAZARDOUS MATERIALS. Would the project:**				
a)	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?			X	
b)	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?			X	
c)	Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within ¼ mile of an existing or proposed school?				X
d)	Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e)	For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a				X

	public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				
f)	For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g)	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h)	Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildland are adjacent to urbanized areas or where residences are intermixed with wildland?				X
8.	**HYDROLOGY AND WATER QUALITY. Would the project:**				
a)	Violate any water quality standards or waste discharge requirements?			X	
b)	Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local ground water table level (for example, the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X
c)	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site.			X	
d)	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site.				X
e)	Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?				X
f)	Otherwise substantially degrade water quality?			X	
g)	Place housing within a 100-year flood-hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
h)	Place within a 100-year flood-hazard area structures which would impede or redirect flood flows?				X
i)	Expose people or structures to a significant risk of loss, injury				X

	or death involving flooding, including flooding as a result of the failure of a levee or dam?				
j)	Inundation by seiche, tsunami, or mudflow?				X
9.	**LAND USE AND PLANNING. Would the project:**				
a)	Physically divide an established community?				X
b)	Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
c)	Conflict with any applicable Habitat Conservation Plan or Natural Community Conservation Plan?				X
10.	**MINERAL RESOURCES. Would the project:**				
a)	Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b)	Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?				X
11.	**NOISE. Would the project result in:**				
a)	Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance or applicable standards of other agencies			X	
b)	Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?			X	
c)	Substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X
d)	A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
e)	For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
f)	For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X
12.	**POPULATION AND HOUSING. Would the project:**				

a)	Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X
b)	Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c)	Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X
13.	**PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or need for new or physical altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:**				
a)	Fire protection?				X
b)	Police protection?				X
c)	Schools?				X
d)	Parks?				X
e)	Other public facilities?				X
14.	**RECREATION. Would the project:**				
a)	Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b)	Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X
15.	**TRANSPORTATION/TRAFFIC. Would the project:**				
a)	Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (for example, result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?			X	
b)	Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X
c)	Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location, that results in substantial safety risks?				X

d)	Substantially increase hazards due to a design feature (for example, sharp curves or dangerous intersections) or incompatible uses (for example, farm equipment)?				X
e)	Result in inadequate emergency access?				X
f)	Result in inadequate parking capacity?				X
g)	Conflict with adopted policies, plans, or programs supporting alternative transportation (for example, bus turnouts, bicycle racks.				X
16.	**UTILITIES AND SERVICE SYSTEMS. Would the project:**				
a)	Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b)	Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction or which could cause significant environmental effects?				X
c)	Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
d)	Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
e)	Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
f)	Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?			X	
g)	Comply with federal, state, and local statutes and regulations related to solid waste?			X	
17.	**MANDATORY FINDINGS OF SIGNIFICANCE. Does the project:**				
a)	Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			X	

b)	Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of the past projects, the effects of other current projects, and the effects of probable future projects.)			X	
c)	Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			X	

3.4 DISCUSSION OF ENVIRONMENTAL EVALUATION

See Section **4.0 ENVIRONMENTAL EVALUATION**

3.5 DETERMINATION:

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.	
I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.	
I find that the proposed project MAY have a significant effect on the environment and an ENVIRONMENTAL IMPACT REPORT is required.	
I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.	
I find that although the proposed Lower Silver Creek Watershed Project (1983 Recommended Plan, as modified by the 1998 Plan Update) could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.	X(1)

(1) The District believes that an Addendum to the 1983 FEIR/FEIS could have been prepared for the project as modified, pursuant to the State CEQA Guidelines Section 15164, but that preparation and circulation of a negative declaration provides more opportunities for public review and comment. Therefore, the District has prepared this IS/EA; however, the changes to the 1983 Recommended Plan do not require the preparation of a supplemental or subsequent EIR.

Valerie Young

Valerie Young, AICP
Senior Environmental Planner
Coyote Creek Watershed Program

October 9, 2000
Date

SECTION 4.0 ENVIRONMENTAL EVALUATION

The environmental evaluation examines the changes in the 1983 Recommended Plan, associated with the modifications in the 1998 Plan Update project as described in **Subsection 1.4.** The focus of the environmental evaluation is on (1) whether the 1998 changes in the 1983 Recommended Plan would themselves result in any new significant or more severe environmental impacts not previously reviewed in the 1983 FEIR/FEIS; and (2) whether there is any other change in circumstances or new information not available when the FEIR/FEIS was prepared that indicates that the project, as modified, will have any new significant or more severe environmental impacts not previously reviewed in the 1983 FEIR/FEIS. In addition, this section reviews mitigation measures and alternatives included in the project changes which will substantially reduce the project's significant effects and which were previously found to be infeasible in the 1983 Recommended Plan FEIR/FEIS.

The following discussion provides an analysis for the response to each question on the checklist. Professional judgment and expertise of the document contributors (See **Section 5.0**) and their research are reflected in the following environmental evaluation. Where possible, specific reference citations are provided. References can be found in **Section 6.0**.

To briefly reiterate the discussions found in **Subsections 1.3 and 1.4**, the 1983 Recommended Plan would have constructed approximately three miles of new concrete channel, retrofitted or left unchanged about 0.9 mile of concrete channel or box culvert, reconfigured nearly 0.9 mile of earthen channel, and flood proofed two industrial buildings to achieve the envisioned reductions in flood hazards and damages (Table 2). The 1983 Recommended Plan, as modified by the 1998 Plan Update would construct about 0.6 mile of new concrete channel, retrofit or leave unchanged a little less than 0.4 mile of concrete channel or box culvert, and reconfigure about three miles of channel as vegetated hybrid block or vegetated earth channel (Table 2). The potential adverse impacts of the 1983 Recommended Plan, as modified by the 1998 Plan Update are the same types as those of the 1983 Recommended Plan, but are less severe. In other words, changes in the 1983 Recommended Plan, by the 1998 Plan Update, avoids, or minimizes, or reduces the impacts of the 1983 Recommended Plan.

4.1 AESTHETICS. Would the project:

a. Have a substantial adverse effect on a scenic vista?

The changes to the 1983 Recommended Plan in the 1998 Plan Update, will not have a substantial adverse effect on a scenic vista as none exist within the project corridor.

b. Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?

The modifications to the 1983 Recommended Plan in the 1998 Plan Update will not damage any scenic resources within the Lower Silver Creek right-of-way compared to the 1983 Recommended Plan. Under the 1983 Recommended Plan, the scattered trees to be removed would also be removed under the 1998 Plan Update.

c. **Substantially degrade the existing visual character or quality of the site and its surroundings?**

Significant, unavoidable aesthetic impacts would have occurred under the 1983 Recommended Plan because of conversion of almost four miles of mostly earthen channels to concrete-lined channels (p. 81, FEIR/FEIS). Impacts for the 1983 Recommended Plan would have been partially mitigated by (1) installing 0.5 acre of landscape mitigation plantings along highly visible concrete sections on King Road; (2) architecturally treating highly visible concrete sections between Mayfair Park and San Antonio Street; and, (3) installing landscaping at selected road crossings to provide some visual screening of the concrete channel (p. 80, FEIR/FEIS).

Less concrete channel is proposed to be constructed under the 1983 Recommended Plan, as modified by the 1998 Plan Update, being replaced mostly with vegetated hybrid block channel walls and earth or earth-covered rip-rap inverts. Instead of concrete trapezoidal or rectangular channels in Reaches 1b, 4a, 4b, 4c, 5a, 5b, 5c, 6a, and 6b, modifications to the 1983 Recommended plan call for a little over two miles of vegetated hybrid block channel walls and earth or earth-covered rip-rap inverts. The design would include planted blocks on the banks, soil over rip-rap in the channel invert (allowing for vegetation establishment), the creation of a defined low-flow channel, and establishment of native riparian trees at the tops of the banks and along one side of the low-flow channel. The aesthetic values would be increased over existing conditions and over the 1983 Recommended Plan in each of these reaches by providing an increase in fluvial habitats (e.g., wetland, riparian, pool, riffle, defined low-flow channel), thereby providing a variety of visual experiences for observers as plants and wildlife return to the areas following the construction period. Thus, the 1983 Recommended Plan, as modified by the 1998 Plan Update avoids or minimizes aesthetic impacts to Lower Silver Creek as compared to the 1983 Recommend Plan.

Another example of design changes to the 1983 Recommended Plan minimizing degradation of the visual character of the project area are the changes to Reaches 1a, 1d, 3a, 3e and 3f. All of these reaches were earthen in the 1983 Recommended Plan. In the modifications to the 1983 Recommended Plan, they are still earthen, however, additional features have been incorporated into the design for the 1983 Recommended Plan, as modified by the 1998 Plan Update. In the case of Reaches 1a and 1d, more vegetation is proposed, especially along the defined low-flow channel. In Reaches 3a, 3e, and 3f, resting pools and rock vortex weirs are included. These changes would create a variety of visual experiences for an observer.

Under either the 1983 Recommended Plan or the 1983 Recommended Plan, as modified by the 1998 Plan Update, routine maintenance may temporarily impact creek aesthetics when sediment and vegetation are periodically removed from specific channel reaches after construction. Maintenance activities are expected as part of preserving the as-built design of either of the plans. The District is in the process of drafting a Stream Maintenance Program (SMP), which if approved, will likely form the basis for maintenance activities for Lower Silver Creek. The SMP includes a list of District-approved Best Management Practices (BMPs) and includes BMPs designed to reduce or avoid potential maintenance-phase impacts. Overall, the effect of maintenance on aesthetics will be beneficial, especially with the regular removal of trash and litter from the stream channel.

d. **Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?**

The modifications to the 1983 Recommended Plan do not create a new source of substantial glare as compared to the 1983 Recommended Plan. In fact, the areas of Lower Silver Creek to be concrete-lined as proposed in the 1983 Recommended Plan are reduced from about three miles to less than one mile in the 1983 Recommend Plan, as modified by the 1998 Plan Update; thus, reducing the impacts of glare. Once the flood protection improvements are constructed, the channel itself will not contribute to glare.

4.2 AGRICULTURAL RESOURCES. Would the project:

a-c. **Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use; b) Conflict with existing zoning for agricultural use, or a Williamson Act contract; or, c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?**

There were no agricultural lands or resources within or adjacent to the project boundaries at the time of the 1983 FEIR/FEIS and this remains the case today. Therefore, there is no change with respect to the circumstance under which the 1983 Recommended Plan, as modified by the 1998 Plan Update is proposed to occur.

4.3 AIR QUALITY. Would the project:

a, c **Conflict with or obstruct implementation of the applicable air quality plan or c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?**

The 1983 Recommended Plan was found to comply with the federal Clean Air Act (p. 84, FEIR/FEIS). The air quality management plan was updated in 1997 and the State Implementation Plan in 1999. Emissions from construction activities that have the potential to affect air quality will not be substantially changed by the modifications to the project and are included in the emissions inventory that is the basis for regional air quality plans, and are not expected to impede attainment or maintenance of ambient air quality standards in the air basin (BAAQMD, 1996). As such, the changes in the 1983 Recommended Plan, as modified by the 1998 Plan Update would not conflict with applicable air quality plans, nor cause cumulatively considerable effects.

b, d Violate any air quality standard or contribute to an existing or projected air quality violation; or, d) Expose sensitive receptors to substantial pollutant concentrations?

Construction of either of the plans would cause emissions of dust and other pollutants from heavy equipment activities and exhaust. Exhaust emissions from heavy equipment, hauling trucks, and from worker vehicles also are potential sources of pollutants. The air quality effects would be short-term and temporary (i.e., occurring during construction) and would tend to be localized as airborne dust may settle off-site. During each phase of construction, emission-generating activity could occur on, around, and while traveling to and from the creek reaches. Dust emissions could occur during site clearing activities, excavation activities, and movement of construction- or maintenance-related vehicles on unpaved surfaces. Dust generation was considered a significant unavoidable impact under the 1983 FEIR/FEIS (p. 81). Mitigation features were included in the 1983 FEIR/FEIS (p.62). The changes to the 1983 Recommended Plan, as modified by the 1998 Plan Update would not result in any new or more significant environmental impacts not previously identified in the 1983 FEIR/FEIS because construction methods and machinery would be essentially the same as what would have been used in 1983. District BMPs (See **Subsection 1.5** and Table 3, Air Quality) reduce air quality effects from construction activities to less-than-significant levels. These BMPs are derived from the BAAQMD 1999 CEQA Guidelines, District standard specifications, and standard practices. The BMPs are similar to, but more detailed than the measures included in the 1983 FEIR/FEIS.

e. Create objectionable odors affecting a substantial number of people?

Soil is generally not malodorous. Odors coming from construction equipment (primarily exhaust) might be temporarily noticeable to adjoining residences, which would be the case under either the 1983 Recommended Plan or the 1983 Recommended Plan, as modified by the 1998 Plan Update. The BMPs noted under 'Air Quality' (See **Subsection 1.5** and Table 3) would also minimize odors.

4.4 BIOLOGICAL RESOURCES. Would the project:

a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

New information available after the 1983 FEIR/FEIS was certified includes the listing of additional species under federal Endangered Species Act, such as the California red-legged frog and the steelhead and the categorization of the California tiger salamander as a species of special concern by DFG . As noted in **Section 2.0**, field surveys conducted by the NRCS and EIP biologists resulted in no observations of species that were added to various state and federal lists since 1983. Construction of either plan would have no anticipated adverse impacts on federal or state-listed threatened or endangered species, or other special-status species of plants or animals as none occur in the Lower Silver Creek Watershed project limits. The changes to the 1983 Recommended Project, as modified by the 1998 Plan Update will not result in the effects noted under **Subsection 4.4.a.** Fishery and aquatic resource and habitat protection BMPs (Table 3) added to the modified project avoid or minimize potential effects to species of concern if they existed in the area (See also **Subsection 1.5**). In addition, construction timing (**Subsection 1.4**) avoids or minimizes potential impacts to species of concern if they existed in the area.

b. **Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?**

Under the 1983 Recommended Plan, approximately 4.5 acres of riparian habitat would have been temporarily eliminated during phased construction (p. 79 FEIR/FEIS). *{Note: After certification of the FEIR/FEIS, the NRCS conducted a field verification of the vegetation for the Mitigation and Monitoring Program and determined that only two acres of upland shrubs and other plants would be affected, rather than the previously reported 4.5 acres of riparian habitat (NRCS, 1999). The two acres of upland shrubs and other plants is the figure used for evaluating the modifications to the 1983 Recommended Plan and not the 4.5 acres of riparian habitat as originally reported. This adjustment does not result in changes to the amount of riparian and/or upland habitat accommodated by the 1998 Plan Update.}* The changes to the 1983 Recommended Plan, as modified by the 1998 Plan Update would result in the loss of the same two acres of upland habitat. The FEIR/FEIS called for mitigating the loss of habitat by planting about 6.5 acres of trees and shrubs (p. 79). The changes to the 1983 Recommended Plan, as modified by the 1998 Plan Update, accommodates an increase in riparian and/or upland habitats to a total of approximately 14 acres, which is considered a beneficial impact. Habitat value would be improved over existing conditions and over the conditions proposed in the 1983 Recommended Plan by providing a larger area of riparian and/or upland vegetation, as well as providing a mix of native species suitable to the area. The changes do not result in any new or more significant impacts.

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Ongoing maintenance may affect volunteer riparian vegetation when sediment and vegetation are periodically removed from the channel. Maintenance impacts are, and were, expected as part of preserving the as-built design of the Lower Silver Creek Watershed project. The 1983 Recommended Plan, as modified by the 1998 Plan Update, does not change the effects of maintenance on riparian vegetation. However, through the fact that the 1983 Recommended Plan, as modified by the 1998 Plan Update, creates conditions for the establishment of more volunteer riparian vegetation, there is potentially more riparian vegetation subject to channel maintenance. This temporary impact would not be significant as the vegetation would rapidly re-establish.

c. **Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?**

Under the 1983 Recommended Plan, the amount of wetland vegetation specifically affected was not described; however, the area affected by excavation under either plan is essentially the same. The FEIR/FEIS noted that the amount of wetland acreage would increase by

almost nine acres, but that approximately six acres would be in concrete-lined channels (p. 79). Mitigation for the loss of wetland vegetation in the 1983 FEIR/FEIS was the planting of trees and shrubs (p. 79). The loss of wetland habitat was not considered a significant unavoidable environmental impact under the 1983
FEIR/FEIS (p. 81).

Between 1983 and 1994, the District conducted maintenance activities on Lower Silver Creek which temporarily removed wetland vegetation. Between 1994 and 1999, no maintenance work was performed in Lower Silver Creek because the District's permit expired. For the 1998 Plan Update, the NRCS performed a jurisdictional wetland delineation (after certification of the FEIR/FEIS) and determined that less than five acres of jurisdictional freshwater wetland vegetation occurring in the channel would be temporarily eliminated during phased construction of the 1983 Recommended Plan, as modified by the 1998 Plan Update (NRCS, 1999). The jurisdictional delineation acreage is the acreage used in this analysis because, in order to get a permit from the U. S. Army Corps of Engineers, a formal jurisdictional delineation is required and field verified by the Corps. The modifications to the 1983 Recommended Plan, would result in the same effect–that is the temporary removal of nearly five acres of wetland vegetation. The 1983 Recommended Plan, as modified by the 1998 Plan Update accommodates an increase of over one acre, over existing conditions, of wetland vegetational area (up to about six acres based on typical cross-sections). This is considered a beneficial effect. For the calculation of wetland vegetation mitigation, reaches that are to be concrete or rip rap covered in soil were not included, although it is likely these areas would support wetland vegetation at some time after construction ended.

The roughly six acres of wetland vegetation would ~~be~~ result because of modifications to the design of the 1983 Recommended Plan channel invert. Enlargement of the channel bottom would create conditions where wetland vegetation can become established. In general, flood protection projects inadvertently create conditions suited to wetland vegetation establishment by providing open (i.e., shadeless), relatively flat-bottomed channels. Wetland vegetation is expected to become established soon after the completion of construction activities in a particular reach, given the presence of adequate hydrological and climatic conditions (i.e., non-drought conditions). Upstream reaches as well as tributaries are expected to provide plant propagules to colonize the affected reaches. The District may evaluate the benefits of planting wetland vegetation; however, the District anticipates wetland vegetation to regrow (SCVWD, 1999b).

The value of the wetland vegetation would be increased over the value of the wetland vegetation in the 1983 Recommended Plan, where six acres of wetland vegetation would have been in concrete-lined channels, with no association to riparian and/or upland habitat. In the project as modified, the approximately six acres of wetland vegetation expected to establish are all associated with earthen channels and riparian and/or upland habitat. The proximity of wetland vegetation to riparian and/or upland habitat enhances the value of wetland vegetational and aquatic systems by providing potential food sources to wildlife utilizing the riparian/upland corridor, nutrient cycling, and limited water quality functions to name a few.

The changes do not result in any new or more significant impacts to wetlands. BMPs added to the modified project (See **Subsection 1.5** and Table 3, Channel Diversion, Turbidity, and Water Quality) would avoid or minimize downstream effects to wetland vegetation.

Once the 1983 Recommended Plan, as modified by the 1998 Plan Update is constructed, ongoing maintenance (e.g., sediment removal and bank stabilization) may also affect wetland vegetation and water quality. Maintenance impacts are expected as part of preserving the as-built design of the project, and the BMPs listed in **Subsection 1.5** and Table 3 (Channel Diversion, Turbidity, and Water Quality) also apply to maintenance activities. Maintenance activities would have occurred under the 1983 Recommended Plan; and the changes to the 1983 Recommended Plan, as modified by the 1998 Plan Update, do not result in any new or more significant impacts.

d. **Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?**

It is anticipated that construction of the Lower Silver Creek Watershed project would occur over two construction seasons--from as early as April 15 (depending on breeding bird surveys) to October 15, beginning in April 2001. The preliminary schedule would include construction of Reaches 1 through 3 during the 2001- 2002 construction season (under two separate contracts) and construction of Reaches 4 through 6 under two separate contracts from 2002 to 2003. Steelhead are not currently found in Lower Silver Creek. District BMPs avoid or minimize effects to wildlife for both the construction activity and on-going maintenance (See **Subsection 1.5** and Table 3–Channel Diversion, Turbidity, Water Quality, Fishery and Aquatic Resources, and Habitat Protection). Bats may use Lower Silver Creek for foraging and are likely to continue to use the area during construction since they are crepuscular (active at dawn and dusk) and upon completion of the 1983 Recommended Plan, as modified by the 1998 Plan Update. Foraging habitat may be improved over the 1983 Recommended Plan because of the decrease in the concrete-lined portions and the increase riparian and/or upland habitat and the enhanced value of wetland vegetation (a beneficial impact).

With the modifications to the 1983 Recommended Plan, fishery migration may improve because of the construction of a defined low-flow channel, in areas of new channel work, between Lake Cunningham and Coyote Creek (a beneficial impact). Design changes associated with the 1998 Plan Update also include two shallow drop structures incorporating low-flow notches and resting pools, and additional pools and riffles installed in the channel invert. Vegetation would be planted to shade the low-flow channel and improve fish habitat. These changes do not result in any new or more significant impacts.

e-f **Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?**

The 1983 FEIR/FEIS was found to conform to applicable plans and policies (p. 84). The changes to the 1983 Recommended Plan avoid and minimize the impacts to biological resources identified in the 1983 FEIR/FEIS. In 1983, none of the plans listed under **Subsection 4.4 e-f** existed for the Lower Silver Creek Watershed project area and there are no known local, regional or state habitat conservation plans within the project area today. In 1983, the western half of the watershed was intensively urbanized.

4.5 CULTURAL RESOURCES. Would the project:

a-d Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5; b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5; c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; or, d) Disturb any human remains, including those interred outside of formal cemeteries?

Soils within the project limits consist of several hundred feet of alluvium, underlain by Undivided Tertiary Sedimentary Rock (composed primarily of mudstone, siltstone, and sandstone conglomerates). Fossils do not occur in alluvium, and Undivided Tertiary Sedimentary Rock is not considered to be fossil-bearing. No paleontological resources are expected to occur within the project limits. Earth-moving activities associated with the either plan would not occur within fossil-bearing strata, and no paleontological resources would be affected. In addition, most of the area was previously graded during the construction of the Lower Silver Creek channel and the bottom grade will remain the same. Thus, the 1983 Recommended Plan, as modified by the 1998 Plan update is not likely to result in any new significant environmental impacts not previously analyzed in the 1983 FEIR/FEIS.

The 1983 Recommended Plan called for the acquisition of about 5.5 acres of right-of-way. The 1983 Recommended Plan, as modified by the 1998 Plan Update, calls for the acquisition of a little over seven acres of land adjacent to Lower Silver Creek to accommodate the right-of-way for the reconstructed channel. Archaeological surveys were conducted along Lower Silver Creek in 1973 and 1975, and an archaeological and historical records search was conducted in 1982 and 2000. No specific archaeological or paleontological resources, or historic, religious or sacred sites were discovered or are known to exist along the banks of Lower Silver Creek within the project limits. A BMP for accidental discovery is outlined in Table 3--Cultural Resources. The District also has a standard provision regarding burial sites and archaeological artifacts.

4.6 GEOLOGY AND SOILS. Would the project:

a-d Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving ...: a) rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; b) ... strong seismic ground shaking; c) ... seismic-related ground failure, including liquefaction; or, d) ... landslides?

Under either plan, Lower Silver Creek is to be modified from its existing flood control configuration and neither the 1983 Recommended Plan or the 1983 Recommended Plan, as modified by the 1998 Plan Update involve the construction of structures for human occupancy. The modifications to the 1983 Recommended Plan do not result in a changed condition. Therefore, the 1983 Recommended Plan, as modified by the 1998 Plan Update would not cause new or substantially more severe significant impacts.

e. **Result in substantial soil erosion or the loss of topsoil?**

Wind and water erosion may occur during the excavation and construction period until vegetative ground cover becomes established. This was considered a significant, unavoidable impact in the 1983 FEIR/FEIS (p. 82). Under either the 1983 Recommended Plan or the 1983 Recommended Plan, as modified by the 1998 Plan Update, a substantially similar amount of earthmoving would occur. BMPs included in the modified project (See **Subsection 1.5** and Table 3–Noise and Air Quality) minimize the environmental effects of soil erosion. Similar, but less detailed BMPs were included in the 1983 FEIR/FEIS on page 62. By virtue of the changes to the project which includes more elaborate and detailed BMPs, what had been a significant impact in 1983 is rendered less-than-significant in the 1983 Recommended Plan, as modified by the 1998 Plan Update.

f-h **Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse; g) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property; or, h) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?**

The project involves the modification of an existing flood control structure and neither the 1983 Recommended Plan nor the 1983 Recommended Plan, as modified by the 1998 Plan Update result in a changed condition. Therefore, the 1983 Recommended Plan, as modified by the 1998 Plan Update would not cause new or substantially more severe significant impacts.

4.7 HAZARDS AND HAZARDOUS MATERIALS. Would the project:

a-b **Create a significant hazard to the public or the environment through ... a) the routine transport, use, or disposal of hazardous materials or, b) ... reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?**

The conditions under which construction and maintenance activities occur have not changed since the 1983 FEIR/FEIS. These activities typically involve the use of equipment fueled by petroleum products, which may be hazardous to the aquatic environment if released. The District's standard specifications outline pollution control measures. In addition, sediments are tested before removal. If the District finds hazardous substances, the District would not reuse the material but take it to a Class I landfill. Sediment within the District's channels has a history of being below established thresholds of significance possibly because the sources of sediment are from the upper watersheds where a consistent source of toxics that could accumulate in the sediments is not present (SCVWD, 1998 and 2000c).

c. **Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within ¼ mile of an existing or proposed school?**

Potentially hazardous substances related to the proposed project include automotive fuel, diesel fuel, lubricating oil and previously contaminated soils. For the time construction equipment would be operating in a given reach, there would be the normal risk of spill, leakage or explosion related to operating any internal combustion engine. The possibility of fuel spills would be present during refueling procedures. Oil or fuel leaks could occur if the equipment were not properly repaired and maintained. This would be the case for either the 1983 Recommended Plan or the 1983 Recommended Plan, as modified by the 1998 Plan Update. Consequently, no change would be caused by the adoption of the 1983 Recommended Plan, as modified by the 1998 Plan Update. The District's standard specifications outline pollution control measures.

d. **Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?**

No part of the Lower Silver Creek Flood Control channel nor the right-of-way to be acquired as identified in the 1983 FEIR/FEIS or in the 1983 Recommended Plan, as modified by the 1998 Plan Update, are included on a list of hazardous material sites pursuant to Government Code Section 65962.5 (EMCON Associates, 1991, Harza Kaldveer Consulting Engineers, 1993, and D & M Consulting, 2000).

e-f **For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area; or, f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?**

Although the project is within two miles of an airport (Reid-Hillview), the activity consists of modifying an existing flood control channel. Neither the 1983 Recommended Plan or the 1983 Recommended Plan, as modified by the 1998 Plan Update, would result in people residing in the project area. In 1983, the area was already 95 percent urbanized. As for construction or maintenance crews working at Lower Silver Creek, their activities would be confined to working within the construction right-of-way which does not significantly intrude into air space. In fact, the height of construction equipment can be lower than surrounding features, such as houses and transmission towers.

g. **Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?**

Neither the 1983 Recommended Plan or the 1983 Recommended Plan, as modified by the

1998 Plan Update would result in the interference of emergency plans because the work consists of reconstructing an existing flood control channel. The intent of both the 1983 Recommended Plan and the 1983 Recommended Plan, as modified by the 1998 Plan Update is to reduce flood hazards and the need for emergency response plans. Neither the current maintenance roads or the proposed maintenance roads are used in emergency response plan or evacuation. Traffic control during construction is provided as a standard BMP (See Subsection 1.5 and Table 3–Traffic Control).

h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

The changes in the 1983 Recommended Plan, as modified by the 1998 Plan Update would not result in the above environmental effect because the work consists of reconstructing an existing flood control channel. The project is not located within a wildland area.

4.8 HYDROLOGY/WATER QUALITY. Would the project:

a, f Violate any water quality standards or waste discharge requirements; or, f) Otherwise substantially degrade water quality?

Reconstructing a flood control channel can temporarily degrade water quality by increasing sediment load downstream. Sediment load could be increased in four ways: (1) installation of diversion structures; (2) removal of diversion structures; (3) when pond water first flows over the recently reconstructed area; and, (4) pumping groundwater from the reach under construction. The 1983 Recommended Plan, as modified by the 1998 Plan Update does not change the above ways in which sediment loads can occur as compared to the 1983 Recommended Plan. The 1983 Recommended Plan contained features to minimize effects to water quality (p. 62); these are included in several BMPs in Table 3 (Channel Diversion, Turbidity, and Water Quality). The BMPs in Table 3 have also been used in recent District maintenance projects to comply with waste discharge requirements and no violations occurred (SCVWD, 2000c).

b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local ground water table level (for example, the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?

The 1983 Recommended Plan would have had little effect on groundwater infiltration because of a wide-spread, nearly impermeable clay layer beneath the project area. The 1983 Recommended Plan, as modified by the 1998 Plan Update would have less impermeable channel lining than the 1983 Recommended Plan, but because of the underlying clay would not substantially increase infiltration. Lower Silver Creek is not part of the District's groundwater recharge system. Therefore, the 1983 Recommended Plan, as modified by the 1998 Plan Update would not cause new significant impacts to groundwater.

c-e **Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site; d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; or, e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?**

Reconstructing an existing flood control channel would not substantially alter the existing drainage pattern of the site because the drainage pattern is already established by the flood control channel and surrounding land uses. This would be the case under both the 1983 Recommended Plan and the 1983 Recommended Plan, as modified by the 1998 Plan Update. Nor does the reconstruction involve constructing impervious surfaces outside of the channel, changing the vegetative cover of land in the upper watersheds, or compacting large areas of soil that would change soil infiltration rates which could alter drainage patterns, nor does reconstruction create barriers to drainage patterns. The 100-year flow will be contained within the channel banks. The modifications to the 1983 Recommended Plan do not result in a changed condition and, therefore, would not create new significant impacts.

g-j **Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map; h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows; in) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam; or, j) Expose people or structures to inundation by seiche, tsunami, or mudflow?**

Construction of housing is not part of either the 1983 Recommended Plan or the 1983 Recommended Plan, as modified by the 1998 Plan Update (See Subsection 1.4). The goal of the project, both in 1983 and at present, is to lessen the exposure of people and structures to flood hazards. The modifications to the 1983 Recommended Plan do not result in a changed condition and, therefore, would not create new significant impacts.

4.9 LAND USE AND PLANNING. Would the project:

a. **Physically divide an established community?**

Neither the 1983 Recommended Plan or the 1983 Recommended Plan, as modified by the 1998 Plan Update, would change the course of Lower Silver Creek so as to divide an established community. The modifications to the 1983 Recommended Plan do not result in a changed condition and, therefore, would not create new significant impacts.

b-c **Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding**

or mitigating an environmental effect; or, c) Conflict with any applicable Habitat Conservation Plan or Natural Community Conservation Plan?

The general plan for the City of San Jose was updated since the 1983 FEIR/FEIS and contains goals and policies concerning creeks and riparian areas. In addition, the City of San Jose approved a Riparian Corridor Policy Study in 1994 (revised in 1999; City of San Jose, 1999). The riparian study recognizes that potential conflicts exist among competing land uses, such as flood protection, and that flood protection is the responsibility of the District. The District is a separate public entity and the creeks and channels within the District's jurisdiction are not subject to the general plan or local ordinances. Even so, the modifications to the 1983 Recommended Plan conform to the polices for storm drainage and flood control contained in the City of San Jose's riparian study (pp. 6 - 7) and to the applicable policies contained under the heading for marinelife and wildlife (p. 8). In addition, the modifications to the 1983 Recommended Plan provides for over 14 acres of riparian/upland habitat (an increase of about 12 acres over existing conditions) and provides for more potential wetland vegetation area (a little over six acres compared to the nearly five acres existing).

The 1983 FEIR/FEIS was found to conform to applicable plans and policies; the proposed modifications improve upon the design of the original project. There are no known habitat conservation plans within the project area nor natural community conservation plans. The project area was highly urbanized in 1983 and has become more so since the FEIR/FEIS was certified. The project as modified would not affect any new environmental plans or policies and is intended to protect urban surroundings while increasing the amount of riparian and/or upland and enhancing the value of wetland vegetation compared to the original project. The modifications to the 1983 Recommended Plan do not result in a changed condition and, therefore, would not create new significant impacts.

4.10 MINERAL RESOURCES. Would the project:

a-b Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state; or, b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

Because mineral resources and associated activities are absent from the project area, neither the 1983 Recommended Plan, or the 1983 Recommended Plan, as modified by the 1998 Plan Update, would result in any significant impacts to existing or potential mineral resources.

4.11 NOISE. Would the project result in:

a-b,d Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance or applicable standards of other agencies; b) Result in exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels; or, d) Result in a substantial temporary or periodic

increase in ambient noise levels in the project vicinity above levels existing without the project?

In the 1983 FEIR/FEIS, noise was considered a significant unavoidable impact (p. 81). Increases in existing ambient noise levels would be temporary (during the construction period) and would be reduced through the implementation of District added BMPs for noise (See **Subsection 1.5** and Table 3--Noise and Air Quality). These effects would occur for either the 1983 Recommended Plan or the 1983 Recommended Plan, as modified by the 1998 Plan Update. No significant change in anticipated noise effects would be caused by the adoption of the 1983 Recommended Plan, as modified by the 1998 Plan Update. Incorporation of BMPs in the modified project reduce the level of impact to less-than-significant.

c. **Substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?**

Once construction is complete, the flood control channel itself would not generate noise.

e-f **For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels; or, f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?**

Although the project is within two miles of an airport (Reid-Hillview), the activity consists of modifying an existing flood control channel. Neither the 1983 Recommended Plan or the 1983 Recommended Plan, as modified by the 1998 Plan Update, would result in people residing in the project area. In 1983, the area was already 95 percent urbanized. As for construction or maintenance crews working at Lower Silver Creek, their activities would be confined to working within the construction right-of-way which does not significantly intrude into air space. In fact, the height of construction equipment can be lower than surrounding features, such as houses and transmission towers.

4.12 POPULATION AND HOUSING. Would the project:

a. **Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?**

The project area was already heavily urbanized in 1983 and urbanization has increased since 1983. The proposed changes to the 1983 Recommended Plan, as modified by the 1998 Plan Update are to the design elements of the project and not to the level of flood protection it provides. The flood protection project would not increase the amount of water available for domestic use and, therefore, would not create an opportunity for population growth. The changes contained in the 1983 Recommended Plan, as modified by the 1998 Plan Update would not change the inherent flood protection nature of the project and would not cause significant growth-inducing impacts.

b-c **Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere; or, c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?**

The amount of right-of-way to be acquired under the 1983 Recommended Plan, as modified by the 1998 Plan update, is slightly higher than the 1983 Recommended Plan (a little over seven acres as compared to about six acres). There is no substantial change in setting or circumstance. The original project did not result in the displacement of a substantial number of housing units or people and the modified project would not cause new or substantially more severe displacement effects.

4.13 PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or need for new or physical altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:

a-e **Fire protection; b) Police protection; c) Schools; d) Parks; or, e) Other public facilities?**

The Santa Clara Valley Water District is the primary provider of flood protection in Santa Clara County. The project would not result in the need for new or physically altered governmental facilities. The project would not involve new permanent buildings and would bring no new students to the area, require no new school facilities, or other governmental services (See **Subsection 4.9 and 4.12**). Both of the plans for Lower Silver Creek envision using right-of-way from two parks and one school (Mayfair Park, Plata Arroyo, and Mathson School). The land to be acquired is vacant and no permanent interference to the operation of the parks or school would occur. Riparian and/or upland plantings would enhance the visual experience of the parks and school. No substantial changes in public services would be caused by the adoption of the 1983 Recommended Plan, as modified by the 1998 Plan Update.

4.14 RECREATION. Would the project:

a-b **Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; or, b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?**

The 1983 Recommended Plan, as modified by the 1998 Plan Update, would not result in the increased use of existing recreational facilities because it would not increase or alter the population of the area (See **Subsection 4.9 and 4.12**) which would lead to an increase in the use of recreational facilities at either a local or regional scale, or affect existing recreational opportunities. Although the 1983 Recommended Plan, as modified by the 1998 Plan Update, would not include design provisions incorporating a trail corridor, the plan does allow for partial access to the stream corridor (at Mayfair and Plata Arroyo) and, at Mathson School, the modified project provides for access to the defined low-flow channel for environmental classroom activities; thus, the modified project would improve recreational opportunities (a beneficial impact) along the creek corridor compared to the 1983 Recommended Plan.

4.15 TRANSPORTATION/TRAFFIC. Would the project:

a-b Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (for example, result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections); or, b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?

Since 1983, traffic has increased along the highways (e.g., I-680 and Hwy. 101) and major arterials (e.g., Story Rd., Capitol Expressway, Alum Rock, McKee Rd.) within the Lower Silver Creek project limits due to growth in the Coyote Creek Watershed (which includes Lower Silver Creek among other creeks); however, the highways, major arterials and the secondary road system were in place in 1983. In addition, the neighborhoods surrounding Lower Silver Creek were also well established by 1983 (See **Section 2 and Subsection 4.12**). Although traffic has increased on the highways and arterials due to growth outside of the Lower Silver Creek vicinity, the transportation/traffic infrastructure setting has not substantially changed in the intervening years.

During construction, both the original plan and the updated plan would cause similar temporary disruptions and inconveniences to nearby residents and businesses from construction traffic. Construction along each reach of the project would temporarily increase vehicular traffic in the vicinity of the construction area. As discussed in **Subsection 1.4**, construction would be carried out along reaches 1, 2 and 3 during about six to eight months in 2001 and along reaches 4, 5 and 6 during six to eight months in 2002.

Where Lower Silver Creek passes under roadways, the bridges (i.e., box culverts) may be enlarged to accommodate flows. The streets over the creek may need to have the grades changed slightly to conform to the new box culverts. However, the footprint of the new or modified box culverts would not exceed the footprint established for the widening of Lower Silver Creek. To perform this work, lane closures may be necessary. Restrictions would be placed on when lane closures can occur on major arterials (e.g., no lane closures during the commute periods). Minor residential streets may have to be closed, but only if there are alternate routes of access.

bridge impact

Construction activities may occur at multiple sites along each reach, depending on the construction contractor's planned schedule, but would not be expected to occur for the entire length of a reach at one time. Construction trucks and construction worker vehicles would use District maintenance roads as much as possible, and would not use roadways along the entire length of the project site at one time. Effects on local streets would change as the need for access to given reaches shifts.

Access to construction sites is expected to be primarily adjacent to existing bridge structures, with creation of new access points to the creek bed only if such access is not available from existing locations. Excavation, demolition, and construction equipment would remain at the construction site for as long as they are needed, and, thus, would not contribute to traffic congestion on a daily basis.

The largest number of trucks expected to be generated during construction would occur during the earthwork phase for each construction site, when sediment and soil would be removed and new fill may be imported. During the earthwork phases, an estimated 20 to 30 truck loads/day would move through a reach during the construction period (i.e., as early as April to October). Materials delivery for installation of channel improvements would generate less construction traffic than would the earthwork phase.

The effects of construction on traffic brought about by the changes to the 1983 Recommended Plan, as modified by the 1998 Plan Update would not result in an adverse change to traffic above and beyond what would occur under the 1983 Recommended Plan. The District has added a BMP to the project as modified reducing construction effects to less-than-significant levels.

Following construction, neither the 1983 Recommended Plan nor the 1983 Recommended Plan, as modified by the 1998 Plan Update, would generate substantial additional traffic on roadways near the project site. Occasional maintenance activities, such as sediment removal, vegetation management and bank stabilization, would continue to occur; these activities usually generate vehicular traffic lasting for as little as one day to four weeks or so (depending on the nature of the maintenance activity) from spring to fall. The project would not require major increases in maintenance-related vehicle traffic and, therefore would not cause significant traffic impacts either individually or cumulatively.

c. **Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location, that results in substantial safety risks?**

The changes to the 1983 Recommended Plan are proposed to be implemented for flood protection purposes and have no effect on air traffic patterns (See **Subsection 4.7 e-f**).

d. **Substantially increase hazards due to a design feature (for example, sharp curves or dangerous intersections) or incompatible uses (for example, farm equipment)?**

The purpose of the project is to reduce flooding hazards by increasing the capacity of Lower Silver Creek. The changes to the 1983 Recommended Plan continue to fulfill this objective and do not cause hazards or incompatible land uses.

e. **Result in inadequate emergency access?**

The effects of emergency access brought about by the changes to the 1983 Recommended Plan, as modified by the 1998 Plan Update would not result in inadequate emergency access above and beyond what would occur under the 1983 Recommended Plan. (See also **Subsection 4.7 g**) A BMP is included as part of the project to provide traffic control during construction (See **Subsection 1.5** and Table 3--Traffic Control).

f-g Result in inadequate parking capacity; or, g) Conflict with adopted policies, plans, or programs supporting alternative transportation (for example, bus turnouts, bicycle racks)?

Under either plan, the reconstruction of a flood protection channel would not require a permanent parking facility. The changes to the 1983 Recommended Plan do not involve activities that would result in inadequate parking. During construction of either project, construction crews may use city streets for parking private vehicles. This additional parking demand may be an inconvenience to local residents while construction workers are in the neighborhood; however, construction activities would not occur for more than a few months in any one location. Therefore, the short-term parking demand would not cause significant impacts on parking capacity. This is a short-term temporary impact ending upon completion of the project and would occur under either plan.

The project takes place within a flood protection channel and would not require any changes to roadway design or permanently generate increased vehicle trips or traffic congestion, where having alternative forms of transportation may be desirable (See **Subsections 4.9, 4.12 and 4.15 a-b**).

4.16 UTILITIES AND SERVICE SYSTEMS. Would the project:

a-e Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board; b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction or which could cause significant environmental effects; c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects; d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed; e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

The changes proposed by the 1983 Recommended Plan, as modified by the 1998 Plan Update, consist of reconstructing a flood protection channel--an activity that does not result in the need for new utility systems, supplies or alterations to the aforementioned utilities, because the changes would not result in population growth nor would the modified project generate new storm water needs (See **Subsection 4.9 and 4.12**).

Maintenance activities that remove accumulated debris and sediment from storm drains would be conducted under either the original or modified project, and would provide a benefit to drainage systems, allowing design stormwater flows to travel through the drainage system.

f-g Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs; or, g) Comply with federal, state, and local statutes and regulations related to solid waste?

Earth removed from the channel would be disposed of at area landfills, as it has for previous District flood protection capital improvement and maintenance projects, if a reuse for the soil cannot be found. It is not anticipated that the changes to the 1983 Recommended Plan, as updated by the 1998 Plan Update, would result in the need for new landfills or alter the current waste system. The District complies with all statutes and regulations pertaining to solid waste.

4.17 MANDATORY FINDINGS OF SIGNIFICANCE. Would the project:

a. **Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?**

The environmentally sensitive changes to the 1983 Recommended Plan by the 1998 Plan Update, avoids and minimizes impacts to the environmental factors listed above (See **Subsections 4.3, 4.4, 4.5, 4.8 and 4.11**); thus, the 1983 Recommended Plan, as modified by the 1998 Plan Update, would not result in new or more significant impacts that were not previously reviewed in the 1983 FEIR/FEIS.

b. **Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of the past projects, the effects of other current projects, and the effects of probable future projects.)**

There are three levels of potential cumulative impacts related to the project: (1) the cumulative impacts of the maintenance of the Lower Silver Creek flood protection channel and its relationship to past and future maintenance activities performed by the District; (2) cumulative impacts of other District capital improvement projects; and, (3) activities performed by other public agencies or private parties. The primary environmental factors potentially affected by these other projects are biological resources and water quality. Thus, the following discussion addresses issues related to biological resources, water quality, and cumulative impacts. The discussion summarizes maintenance activities, capital improvement projects, and projects by other entities and their respective cumulative impacts.

1. Maintenance Projects

a. Maintenance of Lower Silver Creek

The 1983 FEIR/FEIS evaluated impacts to habitats from the point of construction losses and there is no change between the 1983 Recommended Plan and the 1983 Recommended Plan, as modified by the 1998 Plan Update (See **Subsection 4.4**). However, the project as modified would create conditions for the emergence of approximately six acres of wetland vegetation which would be subject to maintenance activities. Maintenance of Lower Silver Creek was noted in the 1983 FEIR/FEIS (pp. 38, 67, 79, 99). It is the District's practice to remove sediment (and any associated vegetation) from specified areas and not from the entire length of the channel; therefore, maintenance activities would not remove all six acres of wetlands at any one time.

Over the life of the Lower Silver Creek project, maintenance activities (i.e., sediment removal and vegetation management) will occur to maintain the as-built condition of the channel to provide the desired level of flood protection. Bank stabilization activities will also occur to restore banks to their pre-erosion footprint and shape. The design of the 1983 Recommended Plan, as modified by the 1998 Plan Update is self-mitigating because it results in an increase of open water and riparian and/or upland habitats, and an enhanced value of wetland vegetation (a beneficial impact). Maintenance activities restore as-built conditions, thereby maintaining the design characteristics that led to the increase in open water, riparian and/or upland habitats, and improved wetland vegetation values. There is no change in respect to circumstances other than more biological resources being in Lower Silver Creek because of the modifications to the project.

Impacts to water quality are temporary in nature, only potentially occurring during maintenance activities. As noted in **Subsection 1.5** and Table 3 (Channel Diversion, Turbidity, and Water Quality), the District implements BMPs that avoid or minimize effects to water quality as part of the routine procedures of the District.

b. Multi-Year Stream Maintenance Program

The *Multi-Year Stream Maintenance Program* (SMP) is being developed to provide the District with long-term guidance to more effectively implement certain routine stream maintenance activities (e.g., sediment removal, bank stabilization, and vegetation management) in a cost-effective and environmentally sensitive manner. Cumulative effects to wetland vegetation and riparian habitats are being evaluated as part of the SMP and specific measures, protocols, monitoring and reporting requirements are proposed to be included to avoid or minimize environmental effects. Mitigation would be provided to compensate for any significant impacts of the SMP.

The SMP would also contain a list of BMPs for work within channels and streams for water quality protection.

c. 1997, 1998 and 2000 Stream Maintenance Projects

Until the SMP is developed, the District is conducting annual environmental reviews of its routine stream maintenance activities in order to provide the flood protection expected by the citizens of Santa Clara County. Examples of this annual approach include work authorized in 1997, 1998 and 2000 (SCVWD, 1996, 1998, 2000b and 2000c). Mitigation was adopted for all of the work, except for the maintenance activities discussed in the 1998 Final IS/ND for the *1998 Stream Maintenance Project*. In the 1998 project description, it was noted that a feature of the project included restoring wetland vegetation at an off-site location. All temporary losses associated with annual maintenance activities were offset; therefore, the effects of the other maintenance projects are mitigated to a level less-than-significant and when viewed in connection with the modifications to the 1983 Recommended Plan where the effects are less-than-significant, cumulative effects of the 1983 Recommended Plan, as modified by the 1998 Plan Update, are not considerable. Water quality protection measures were included in all there stream maintenance projects.

2. Other Capital Improvement Projects in the Coyote Creek Watershed

a. Upper Penitencia Creek

Upper Penitencia Creek is an approximately 3.5 mile tributary that empties into Coyote Creek downstream of U.S. 101. Lower Silver Creek's confluence with Coyote Creek is located a few miles upstream of this point.

Construction of the proposed project on Upper Penitencia Creek would remove about 1.5 acres of riparian vegetation throughout the entire reach. Although a formal wetland delineation has not been conducted, the preliminary estimated loss of wetland vegetation would be approximately 0.5 acres (SCVWD, 2000d). The creek also has a large steelhead run. Mitigation is proposed for impacts to riparian vegetation and fish resources. The small amount of wetland vegetation affected is expected to regrow. The effects of the Upper Penitencia project are expected to be mitigated to a level less-than-significant and when viewed in connection with the modifications to the 1983 Recommended Plan where the effects are less-than-significant, cumulative effects of the 1983 Recommended Plan, as modified by the 1998 Plan Update, are not considerable.

As noted in Subsection 1.5 and Table 3 (Channel Diversion, Turbidity, and Water Quality) and the above paragraphs, the District implements BMPs that avoid or minimize effects to water quality as part of the routine procedures of the District.

b. Silver/Thompson Creek Watershed Project

Part of the Silver/Thompson Creek project consists of restoring design conditions by removing sediment from Lower Silver Creek and Thompson Creek between Cunningham Avenue and Quimby Road. The project area is located upstream of the proposed Lower Silver Creek project that is the subject of this document. In the course of removing the accumulated sediment, about 12 acres of wetland/riparian vegetation may be removed. Replacement for these projected wetland losses will be addressed in the Stream Maintenance Program and EIR. Wetland vegetation would be anticipated to be replaced with wetland vegetation of equal acreage or some form of equivalent replacement; therefore, the effects of the Silver/Thompson Creek projects are expected to be mitigated to a level less-than-significant and when viewed in connection with the modifications to the 1983 Recommended Plan where the effects are less-than-significant, cumulative effects of the 1983 Recommended Plan, as modified by the 1998 Plan Update, are not considerable.

In addition to the sediment removal project, the Silver/Thompson project consists of further studies of the watershed. If additional capital improvements projects are recommended by these studies, wetland/riparian vegetation may be affected. These future projects will be subject to CEQA and would be required to analyze direct, indirect and cumulative impacts. The District would comply with Ends Policy 2.1.1.1 and 2.1.1.3 (See **Subsection 1.2**).

See Upper Penitencia Creek for a discussion on water quality.

3. Projects by Other Public Agencies and Private Parties

District Ordinance 83-2 requires a project review and permitting process to minimize impacts to watercourses resulting from development or community activities. The following list of projects (by creek) are currently under Community Projects Review, a unit within the District. The District is not the Lead Agency for CEQA compliance for activities by other public agencies or private parties. The projects listed below may potentially effect biological resources and water quality in the vicinity of the individual project; however, they are not likely to result in cumulative effects to Lower Silver Creek or the Coyote Creek Watershed as explained following the list.

a. Lower Silver Creek

Hacienda Villa - construction of an outfall by a private party; maybe under construction at the time of the Lower Silver Creek Watershed project

520 Marburg Way - private bridge to be constructed; schedule unknown

b. Coyote Creek

Silver Creek Place Bridge - bridge construction at Blossom Hill Rd by private party; not scheduled

San Jose Self Storage - removal of illegal levee as part of proposed private party development; not scheduled

Hwy. 101 Widening from Cochrane to Metcalf - Caltrans is proposing to widen the bridge at this location; construction in 2002 - 2004

Hwy.101/85 Interchange - Caltrans and VTA are proposing to widen the bridge at this location; construction in 2001 - 2004

I-880 Widening from N. First St. to Montague Expressway - Caltrans is proposing to replace the existing bridge with a wider bridge at Brokaw Rd; construction 2001 - 2003

Coyote Creek Streamflow Augmentation - use of recycled water to augment Coyote Creek flows; construction in 2001

Coyote Creek Trail at Yerba Buena - Blowoff Extension - grading of retaining wall and removal of vegetation; under construction

Coyote Creek Trail - construction of a trail from Dixon Landing Rd. to Montague Expressway and along Berryessa Creek

c. Los Coches Creek

Dempsey Rd. Housing Project - private party to construct a pedestrian bridge over Los Coches Creek

2360 Calaveras Rd. - erosion repair on Los Coches in the foothills as compensation for illegal dumping into creek; construction soon

d. Coyote Canal

Coyote Creek Golf Course - private party to modify existing bridge over canal; construction in 2001

e. Quimby Creek

4400 Chaboyoa Rd. - private party installing flood protection along creek

The project as modified, would affect a broader range of biological resources and effect water quality to a greater spatial extent than affected by the two minor projects on Lower Silver Creek. The two other projects have localized effects and have no opportunity to add to potentially significant cumulative effects.

Project sponsors would design the outfall and bridge to be compatible with the 1983 Recommended Plan, as modified by the 1998 Plan Update. The project as modified would not have effects that are considerable when viewed with the effects of the two other projects on Lower Silver Creek.

As for the other creeks, with the exception of the bridge projects and streamflow augmentation project on Coyote Creek, these minor activities are unlikely to affect Lower Silver Creek or the 1983 Recommended Plan, as modified by the 1998 Plan Update because of the geographical separation of the five projects from the project limits of Lower Silver Creek. The other projects may affect, to a limited extent, similar biological resources and water quality within the Coyote Creek Watershed; however, the other projects either involve minor work in the creek (erosion repair, a pedestrian bridge crossing–typically a clear span–or flood protection for a parcel) or are at top-of-bank (levee and trails) and outside the stream channel. The Lead Agencies for these projects (e.g., the County of Santa Clara or a city) would be required under CEQA to examine these other projects for potentially cumulative effects and, it is a reasonable assumption to presume the Lead Agencies would require mitigation if a cumulative effect was found. District Ordinance 83-2, the S. F. Regional Water Quality Control Board and the Department of Fish and Game would require other public agencies and private parties to implement BMPs for biological resource and water quality protection. The modified project is not cumulatively considerable or significant when viewed in conjunction with the effects of the other projects on other streams.

The bridge projects and flow augmentation project are of a potentially significant scale that they may affect biological resources and water quality on Coyote Creek; however these projects are unlikely to affect Lower Silver Creek or the 1983 Recommended Plan, as modified by the 1998 Plan Update because of the geographical separation of the five projects from the project limits of Lower Silver Creek. A potential cumulative effect to biological resources within the Coyote Creek watershed exists, however, when the modified project is viewed in connection with the bridge and streamflow augmentation projects. As noted in Subsection 4.4, the 1983 Recommended Plan, as modified by the 1998 Plan Update provides for riparian and open water habitats, and improved wetland vegetation value, thus self-mitigating the impacts of the project as modified. Caltrans and the City of San Jose are responsible for preparing the CEQA documents for the listed projects and, given the valuable resources associated with Coyote Creek (one of the last remaining nearly continuous riparian corridors in the County; steelhead and salmon runs) and the public interest in Coyote Creek, it is a reasonable assumption to presume that individual and cumulative impacts will be fully mitigated during the CEQA and permitting process for those projects. Therefore, the effects of the modified project are not cumulatively considerable when viewed in conjunction with the effects of the bridge and streamflow augmentation projects on Coyote Creek and the impacts of 1983 Recommended Plan, as modified by the 1998 Plan Update are not significant.

c. **Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?**

The 1983 Recommended Plan, as modified by the 1998 Plan Update would either have no impact or less-than-significant impacts to environmental effects which could cause substantial adverse effects on humans either directly or indirectly. See the discussions related to the following environmental factors: aesthetics **(4.1)**, agricultural resources **(4.2)**, air quality **(4.3)**,cultural resources **(4.5)**, geology/soils **(4.6)**, hazards and hazardous materials **(4.7)**, hydrology/water quality **(4.8)**, land use/planning **(4.9)**, mineral resources **(4.10)**, noise **(4.11)**, population/housing **(4.12)**, public services **(4.13)**, recreation **(4.14)**, transportation and circulation **(4.15)**, and utilities and service systems **(4.16)**. The changes to the 1983 Recommended Plan were designed to avoid or minimize effects described in the 1983 FEIR/FEIS. Furthermore, the District incorporated BMPs into the project description regardless of an activity's potential for significant effect as part of the District's commitment to environmental stewardship.

SECTION 5.0 CONTRIBUTORS

The professional judgment and expertise of the following document contributors is incorporated throughout the Initial Study/Environmental Assessment.

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The SMP would also contain a list of BMPs for work within channels and streams for water quality protection.

c. 1997, 1998 and 2000 Stream Maintenance Projects

Until the SMP is developed, the District is conducting annual environmental reviews of its routine stream maintenance activities in order to provide the flood protection expected by the citizens of Santa Clara County. Examples of this annual approach include work authorized in 1997, 1998 and 2000 (SCVWD, 1996, 1998, 2000b and 2000c). Mitigation was adopted for all of the work, except for the maintenance activities discussed in the 1998 Final IS/ND for the *1998 Stream Maintenance Project*. In the 1998 project description, it was noted that a feature of the project included restoring wetland vegetation at an off-site location. All temporary losses associated with annual maintenance activities were offset; therefore, the effects of the other maintenance projects are mitigated to a level less-than-significant and when viewed in connection with the modifications to the 1983 Recommended Plan where the effects are less-than-significant, cumulative effects of the 1983 Recommended Plan, as modified by the 1998 Plan Update, are not considerable. Water quality protection measures were included in all there stream maintenance projects.

2. Other Capital Improvement Projects in the Coyote Creek Watershed

a. Upper Penitencia Creek

Upper Penitencia Creek is an approximately 3.5 mile tributary that empties into Coyote Creek downstream of U.S. 101. Lower Silver Creek's confluence with Coyote Creek is located a few miles upstream of this point.

Construction of the proposed project on Upper Penitencia Creek would remove about 1.5 acres of riparian vegetation throughout the entire reach. Although a formal wetland delineation has not been conducted, the preliminary estimated loss of wetland vegetation would be approximately 0.5 acres (SCVWD, 2000d). The creek also has a large steelhead run. Mitigation is proposed for impacts to riparian vegetation and fish resources. The small amount of wetland vegetation affected is expected to regrow. The effects of the Upper Penitencia project are expected to be mitigated to a level less-than-significant and when viewed in connection with the modifications to the 1983 Recommended Plan where the effects are less-than-significant, cumulative effects of the 1983 Recommended Plan, as modified by the 1998 Plan Update, are not considerable.

As noted in Subsection 1.5 and Table 3 (Channel Diversion, Turbidity, and Water Quality) and the above paragraphs, the District implements BMPs that avoid or minimize effects to water quality as part of the routine procedures of the District.

b. Silver/Thompson Creek Watershed Project

Part of the Silver/Thompson Creek project consists of restoring design conditions by removing sediment from Lower Silver Creek and Thompson Creek between Cunningham Avenue and Quimby Road. The project area is located upstream of the proposed Lower Silver Creek project that is the subject of this document. In the course of removing the accumulated sediment, about 12 acres of wetland/riparian vegetation may be removed. Replacement for these projected wetland losses will be addressed in the Stream Maintenance Program and EIR. Wetland vegetation would be anticipated to be replaced with wetland vegetation of equal acreage or some form of equivalent replacement; therefore, the effects of the Silver/Thompson Creek projects are expected to be mitigated to a level less-than-significant and when viewed in connection with the modifications to the 1983 Recommended Plan where the effects are less-than-significant, cumulative effects of the 1983 Recommended Plan, as modified by the 1998 Plan Update, are not considerable.

In addition to the sediment removal project, the Silver/Thompson project consists of further studies of the watershed. If additional capital improvements projects are recommended by these studies, wetland/riparian vegetation may be affected. These future projects will be subject to CEQA and would be required to analyze direct, indirect and cumulative impacts. The District would comply with Ends Policy 2.1.1.1 and 2.1.1.3 (See **Subsection 1.2**).

See Upper Penitencia Creek for a discussion on water quality.

3. Projects by Other Public Agencies and Private Parties

District Ordinance 83-2 requires a project review and permitting process to minimize impacts to watercourses resulting from development or community activities. The following list of projects (by creek) are currently under Community Projects Review, a unit within the District. The District is not the Lead Agency for CEQA compliance for activities by other public agencies or private parties. The projects listed below may potentially effect biological resources and water quality in the vicinity of the individual project; however, they are not likely to result in cumulative effects to Lower Silver Creek or the Coyote Creek Watershed as explained following the list.

a. Lower Silver Creek

Hacienda Villa - construction of an outfall by a private party; maybe under construction at the time of the Lower Silver Creek Watershed project

520 Marburg Way - private bridge to be constructed; schedule unknown

b. Coyote Creek

Silver Creek Place Bridge - bridge construction at Blossom Hill Rd by private party; not scheduled

San Jose Self Storage - removal of illegal levee as part of proposed private party development; not scheduled

Hwy. 101 Widening from Cochrane to Metcalf - Caltrans is proposing to widen the bridge at this location; construction in 2002 - 2004

Hwy.101/85 Interchange - Caltrans and VTA are proposing to widen the bridge at this location; construction in 2001 - 2004

I-880 Widening from N. First St. to Montague Expressway - Caltrans is proposing to replace the existing bridge with a wider bridge at Brokaw Rd; construction 2001 - 2003

Coyote Creek Streamflow Augmentation - use of recycled water to augment Coyote Creek flows; construction in 2001

Coyote Creek Trail at Yerba Buena - Blowoff Extension - grading of retaining wall and removal of vegetation; under construction

Coyote Creek Trail - construction of a trail from Dixon Landing Rd. to Montague Expressway and along Berryessa Creek

c. Los Coches Creek

Dempsey Rd. Housing Project - private party to construct a pedestrian bridge over Los Coches Creek

2360 Calaveras Rd. - erosion repair on Los Coches in the foothills as compensation for illegal dumping into creek; construction soon

d. Coyote Canal

Coyote Creek Golf Course - private party to modify existing bridge over canal; construction in 2001

e. Quimby Creek

4400 Chaboyoa Rd. - private party installing flood protection along creek

The project as modified, would affect a broader range of biological resources and effect water quality to a greater spatial extent than affected by the two minor projects on Lower Silver Creek. The two other projects have localized effects and have no opportunity to add to potentially significant cumulative effects.

Project sponsors would design the outfall and bridge to be compatible with the 1983 Recommended Plan, as modified by the 1998 Plan Update. The project as modified would not have effects that are considerable when viewed with the effects of the two other projects on Lower Silver Creek.

As for the other creeks, with the exception of the bridge projects and streamflow augmentation project on Coyote Creek, these minor activities are unlikely to affect Lower Silver Creek or the 1983 Recommended Plan, as modified by the 1998 Plan Update because of the geographical separation of the five projects from the project limits of Lower Silver Creek. The other projects may affect, to a limited extent, similar biological resources and water quality within the Coyote Creek Watershed; however, the other projects either involve minor work in the creek (erosion repair, a pedestrian bridge crossing–typically a clear span–or flood protection for a parcel) or are at top-of-bank (levee and trails) and outside the stream channel. The Lead Agencies for these projects (e.g., the County of Santa Clara or a city) would be required under CEQA to examine these other projects for potentially cumulative effects and, it is a reasonable assumption to presume the Lead Agencies would require mitigation if a cumulative effect was found. District Ordinance 83-2, the S. F. Regional Water Quality Control Board and the Department of Fish and Game would require other public agencies and private parties to implement BMPs for biological resource and water quality protection. The modified project is not cumulatively considerable or significant when viewed in conjunction with the effects of the other projects on other streams.

The bridge projects and flow augmentation project are of a potentially significant scale that they may affect biological resources and water quality on Coyote Creek; however these projects are unlikely to affect Lower Silver Creek or the 1983 Recommended Plan, as modified by the 1998 Plan Update because of the geographical separation of the five projects from the project limits of Lower Silver Creek. A potential cumulative effect to biological resources within the Coyote Creek watershed exists, however, when the modified project is viewed in connection with the bridge and streamflow augmentation projects. As noted in Subsection 4.4, the 1983 Recommended Plan, as modified by the 1998 Plan Update provides for riparian and open water habitats, and improved wetland vegetation value, thus self-mitigating the impacts of the project as modified. Caltrans and the City of San Jose are responsible for preparing the CEQA documents for the listed projects and, given the valuable resources associated with Coyote Creek (one of the last remaining nearly continuous riparian corridors in the County; steelhead and salmon runs) and the public interest in Coyote Creek, it is a reasonable assumption to presume that individual and cumulative impacts will be fully mitigated during the CEQA and permitting process for those projects. Therefore, the effects of the modified project are not cumulatively considerable when viewed in conjunction with the effects of the bridge and streamflow augmentation projects on Coyote Creek and the impacts of 1983 Recommended Plan, as modified by the 1998 Plan Update are not significant.

c. **Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?**

The 1983 Recommended Plan, as modified by the 1998 Plan Update would either have no impact or less-than-significant impacts to environmental effects which could cause substantial adverse effects on humans either directly or indirectly. See the discussions related to the following environmental factors: aesthetics **(4.1)**, agricultural resources **(4.2)**, air quality **(4.3)**,cultural resources **(4.5)**, geology/soils **(4.6)**, hazards and hazardous materials **(4.7)**, hydrology/water quality **(4.8)**, land use/planning **(4.9)**, mineral resources **(4.10)**, noise **(4.11)**, population/housing **(4.12)**, public services **(4.13)**, recreation **(4.14)**, transportation and circulation **(4.15)**, and utilities and service systems **(4.16)**. The changes to the 1983 Recommended Plan were designed to avoid or minimize effects described in the 1983 FEIR/FEIS. Furthermore, the District incorporated BMPs into the project description regardless of an activity's potential for significant effect as part of the District's commitment to environmental stewardship.

SECTION 5.0 CONTRIBUTORS

The professional judgment and expertise of the following document contributors is incorporated throughout the Initial Study/Environmental Assessment.

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6.1 REFERENCES

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6.2 PERSONAL COMMUNICATIONS

Abel, Jae, Santa Clara Valley Water District

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SECTION 7.0 DISCUSSION OF ADDITIONAL CONSIDERATIONS AS REQUIRED BY THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

This section describes the additional considerations required by the NRCS for compliance with NEPA but are not required under CEQA.

7.1 OBJECTIVE AND NEED

As outlined in Section 1.0 of this document, the objectives and need for the project focus on providing flood protection for Lower Silver Creek, as well as preserving and/or enhancing existing wetland and riparian vegetation.

7.2 SUMMARY OF ALTERNATIVES

7.2.1 No Project (Existing Conditions)

The No Project alternative involves leaving the channel in its existing condition and continuing the existing maintenance program. This alternative would solve none of the flooding or sedimentation problems currently associated with Lower Silver Creek. The habitat values currently associated with the channel would remain essentially unchanged.

7.2.2 No Action (1983 Recommended Plan)

The No Action alternative would be to construct the project as presented in the 1983 Recommended Plan. Most of the channel segments in this alternative would be transformed from the existing excavated earth to trapezoidal concrete. The replacement of existing wildlife habitat with concrete channels would have a substantial negative impact on these resources. In eight of the 19 stream reaches, there would be no net change from existing conditions if the 1983 Recommended Plan were implemented. In 11 of the 19 reaches, the net change would result in reduced habitat extent and value. None of the reaches would benefit from an increase in vegetation or wildlife values with the No Action alternative. However, this alternative would provide the flood protection and sediment transport goals desired from the project.

7.2.3 Proposed Project (1983 Recommended Plan, as modified by the 1998 Plan Update)

Because of the potential environmental impacts associated with the 1983 Recommended Plan, changes to the project were developed in coordination with the resource agencies as discussed in **Section 1.0**. Extensive effort and agency coordination was expended to incorporate changes that would result in maximum improvement to existing habitat conditions, while still meeting the flood protection and sedimentation goals of the original project. The 1983 Recommended Plan would have had a negative impact on the 11 reaches within the Lower Silver Creek project limits. The 1983 Recommended Plan, as modified by the 1998 Plan Update, would result in improved habitat values in 16 of the 19 reaches over existing conditions and the 1983 Recommended Plan. In three reaches, the 1983 Recommended Plan, as modified by the 1998 Plan Update would have the same negative impact on habitat conditions as was described in the 1983 EIR/EIS. These three reaches are all areas with limited rights-of-way, where there are essentially no design options other than a concrete-lined channel. However, each of these reaches would include resting pools for fish, which constitutes a beneficial change over the channel design proposed in the 1983 Recommended Plan. The significance of the negative impacts to the three reaches was discussed in the 1983 EIR/EIS as part of the overall project.

7.3 COMPARISON OF ALTERNATIVES

The table that follows presents a comparison of the effects the three alternatives (Proposed Project, No Action, and No Project) could have on a variety of resources (Table 6). The topics are presented in an approximate order of importance that reflects the primary goals of the Lower Silver Creek Watershed Project in providing increased flood protection and reducing sediment deposition while improving terrestrial and aquatic habitats. Topics that are not discussed in this section include land use, public services, utilities, and growth-inducing effects. These topics are not addressed because construction of the proposed improvements to Lower Silver Creek would not lead to changes in the ability to supply or an increase in demand for these resources.

Table 6
Comparison of effects of the three alternatives on a variety of resources in Lower Silver Creek.

	Topic/ Resource	Proposed Project (1998 Plan Update)	No Action (1983 Recommended Plan)	No Project (Existing Conditions)
1	Flooding	Final build-out would meet the desired flood control goals of providing protection in the event of a 100-year event **(Subsections 1.4 and 4.8).**	Final build-out would meet the desired flood control goals of providing protection in the event of a 100-year event **(Subsections 1.3 and 4.8).**	Flooding would continue to be a major problem along Lower Silver Creek.
2	Erosion Control	Reconstruction of the creek channel would protect adjacent properties; however, some erosion would still occur, but is anticipated to be less than existing conditions.	Conversion of an earth channel to concrete would protect adjacent properties by eliminating bank erosion compared to existing conditions and the proposed project; however, the impact would not be more severe since the proposed project incorporates erosion control features.	Unstable and unprotected streambanks would continue to erode adding large amounts of sediment to the creek and requiring ongoing maintenance. No additional properties protected.

Table 6 (Continued)
Comparison of effects of the three alternatives on a variety of resources in Lower Silver Creek

	Topic/ Resource	Proposed Project (1998 Plan Update)	No Action (1983 Recommended Plan)	No Project (Existing Conditions)
3	Sediment Deposition	The channel has been designed to reduce sediment deposition during a 100-year flood event. However, the wetland and riparian vegetation could lead to increased sedimentation as compared to the no action alternative, but less sedimentation than existing conditions.	The channel has been designed to reduce sediment deposition during a 100-year flood event. The primarily concrete construction allows lower rates of deposition when compared to the proposed project.	Sediment deposition would remain high on the floodplain at approximately 20,080 tons during a 100-year flood event.
4	Riparian and/or Upland Habitat	The final result of the project would be a nearly continuous (~14 acres) riparian/upland corridor between Coyote Creek and Lake Cunningham **(Subsection 4.4)**.	~6.5 acres of riparian and/or upland habitat would be provided onsite, primarily in Reaches 1 and 3.	The minimal upland habitat (two acres) would remain fragmented and of and poor quality.
5	Wetland Habitat	The channel design creates conditions that could result in the regrowth of wetland vegetation (~six acres) upon project completion **(Subsection 4.4)**.	The final result would be a creek that is mostly a concrete-lined channel with limited wetland vegetation and value.	Wetland vegetation would remain of limited distribution and of poor quality.
6	Threatened & Endangered Species	Completion of the project would provide improved aquatic and terrestrial habitat for any special status species that may occur within the project area in the future.	The resulting terrestrial and aquatic habitat from this option would be of minimal value to any special status species that may occur within the project area in the future.	Current terrestrial and aquatic habitat conditions are marginal for any special status species that may occur within the project area in the future.

Table 6 (Continued)
Comparison of effects of the three alternatives on a variety of resources in Lower Silver Creek

7	Cultural Resources	No cultural resources have been identified within the project area and therefore construction is not likely to have an effect on resources (**Subsection 4.5**).	No cultural resources have been identified within the project area and therefore construction is not likely to have an effect on resources (**Subsection 4.5**).	No cultural resources have been identified within the project area and therefore ongoing maintenance is not likely to have an effect on resources (**Subsection 4.5**).
8	Transportation	Temporary local disruptions because of construction activities (**Subsection 4.15**). Improved access during 100-year flood conditions (**Subsection 1.4**).	Temporary local disruptions because of construction activities (**Subsection 4.15**). Improved access during 100-year flood conditions (**Subsection 1.3**).	No disruptions from construction activities. However, access conditions would remain poor during a 100-year flood event.
9	Air Quality and Noise	Minimal and temporary degradation due to construction activities (**Subsections 4.3 and 4.11**)	Minimal and temporary degradation due to construction activities (**Subsections 4.3 and 4.11**)	No change in the existing conditions.
10	Water Quality	Stabilized streambanks lead to decreased sediment load combined with increased shade from riparian plants would lead to overall improved water quality.	Stabilized streambanks lead to decreased sediment load. However, water temperatures are expected to remain near current conditions because of a lack of shading leading to no net change in overall water quality.	Current sediment loads and effects of limited riparian shading on water temperatures creates relatively poor water quality.
11	Aesthetics	The use of bio-technical construction methods and extensive riparian/upland plantings would provide a creek that is aesthetically pleasing (**Subsection 4.1**).	Specific treatments in highly visible areas would minimize most aesthetic impacts. However, in some areas, modifications to the channel may result in adverse visual impacts	Minimal streamside vegetation, debris, and trash all combine to create an urban creek of poor visual quality.

Table 6 (Continued)
Comparison of effects of the three alternatives on a variety of resources in Lower Silver Creek

			which are significant and unavoidable (**Subsection 4.1**).	
12	Hazardous Materials	Although it appears unlikely, excavation could expose soils that are contaminated to levels unacceptable for water entering San Francisco Bay but below the level considered hazardous (**Subsection 4.7**).	Although it appears unlikely, excavation could expose soils that are contaminated to levels unacceptable for water entering San Francisco Bay but below the level considered hazardous (**Subsection 4.7**).	Routine maintenance would continue and may continue to expose contaminated soils but on a limited scale.

7.4 SOCIAL AND ECONOMIC IMPACTS

The social and economic structure of a region is composed of a number of interrelated resources, defined by an area's population, household characteristics, employment, and personal income. Other contributors to the socioeconomic composition of an area include the availability and cost of housing, the quality of community services, and the types of industries that comprise the economic base of the area.

The construction of the Lower Silver Creek Watershed Project could have both social and economic implications on the region. Impacts to the social environment could occur if the proposed project results in community disruption, such as the displacement of households, or is perceived as undesirable because of health, safety, or other quality-of-life considerations. No disruption, displacement or health and safety impacts would result from the project (See **Subsections 4.3, 4.6 - 4.9, 4.11 and 4.12**). Beneficial effects to the social environment are anticipated because of the improved visual quality, improved wildlife habitat and reduced flooding that can be attributed to project implementation.

In economic terms, the proposed project could generate increased economic activity in the regional economy resulting from project-generated expenditures. The direct effects of the project would include jobs for construction workers and purchases of materials and service to construct and then support the project during its operation. Direct project related expenditures would generate, in addition, indirect (i.e., induced) jobs and earnings through a multiplier effect. Many of these indirect jobs may be filled by local workers, thereby benefitting the local economy further.

The Lower Silver Creek Watershed Project ultimately would provide both social and economic benefits to the immediate San Jose community within the vicinity of the project site and to the greater San Francisco Bay Area community at large. The project provides for improved quality of open space associated with the channel modifications and reduces flooding risks in residential areas, commercial areas, and transportation corridors surrounding Lower Silver Creek. The Watershed Project would result in beneficial changes to the existing natural and physical environment in addition to the associated human environment.

Significant economic or social impacts caused by the project are not anticipated.

7.5 ISSUES OF ENVIRONMENTAL JUSTICE

Environmental justice addresses the concept that the identified impacts of a proposed project may fall disproportionately on minority and low-income communities. Executive Order 12898 requires federal agencies to make the achievement of environmental justice a part of their missions by identifying and addressing disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority and low-income populations. According to U.S. Census Bureau information (Tracts 5035.02, 5040, and 5037.2 encompass the project area), the majority of the residential area in the immediate vicinity surrounding the proposed project is comprised of minority ethnic groups. The neighborhood is also considered low-income based on the City of San Jose's General Plan definition that a low-income household has an annual income of no more than 80 percent of the Santa Clara County median household income.

The project would not result in circumstances that would create disproportionate impacts on low income or minority communities. The existing flood control channel would be widened requiring the acquisition of about seven acres of land; however, displacements are not anticipated. The long-term result of the project will be improved flood protection, which will provide a direct benefit to those living in the adjacent community. The project would also improve recreational opportunities. Thus, no issues of environmental justice result from the proposed project.

7.6 CONFORMITY WITH FEDERAL AIR QUALITY STANDARDS

The Lower Silver Creek Watershed Project would not conflict with federal plans regulating potential impacts to air quality. The requirements of the Clean Air Act (CAA) have been satisfied because the proposed project would adhere to the State air quality standards. Project activity would have minor, short-term impacts on air quality in the vicinity of the project site, as discussed in **Subsection 4.2**; these construction impacts would be controlled using BMPs. The Santa Clara Valley Water District has determined that the total direct and non-direct project emissions would not exceed the de minimus threshold levels of 40 CFR 93.153. Therefore, the proposed project would conform to the State air quality Implementation Plan (SIP) for California, and no further discussion is required.

7.7 COMPLIANCE WITH THE FEDERAL ENDANGERED SPECIES ACT (FESA)

The NRCS has coordinated the development of the Lower Silver Creek Watershed Project with USFWS and NMFS. USFWS has advised NRCS that the project is in compliance with the FESA (White, 1997). NMFS has advised NRCS that consultation with NMFS under Section 7 of the FESA is not necessary (Helvey, 2000).

7.8 PUBLIC PARTICIPATION

The Lower Silver Creek Watershed Plan has been the subject of several public participation, consultation, notification events since the publication of the EIR/EIS in 1983. The following presents a summary of the major events.

7.8.1 Coordination Between the Guadalupe-Coyote River Resource Conservation District, the Santa Clara Valley Water District, and NRCS

Several meetings and information exchanges with the Guadalupe-Coyote Resource Conservation District (formerly the Evergreen Resource Conservation District or ERCD) or GCRCD, which is a local co-sponsor of the project, have occurred. Resource Conservation Districts were formed as independent liaisons between the federal government and local landowners. Resource Conservation District governing boards are formed of officials elected by the public and are, therefore, legitimate representatives of the public. In addition to meetings involving the GCRCD listed below, District representatives attend GCRCD Board Meetings regularly to provide updated information on the watershed plan.

A chronology of meetings and activities involving the public follows:

July 1983 - EIR/EIS was certified.

March 18, 1993. - coordination meeting between District and SCS (now known as NRCS), attended by ERCD Director Nancy Bernardi.

November 14, 1993. - SCS distributed draft Watershed Plan Update to ERCD and District.

November 30, 1993. - Coordination meeting between District staff, SCS and ERCD to discuss Watershed Plan Update and estimated time to complete section 404 permit application.

January 20, 1994. - SCS, ERCD, District staff meeting to discuss Watershed Plan and section 404 (Clean Water Act) permit process.

February 16, 1994. - District Board of Directors met with ERCD Board of Directors to discuss the watershed plan.

May 20, 1994 – ERCD sent a letter of approval (with conditions) to District Board of Directors.

November 30, 1994 – Meeting with ERCD, NRCS and other agencies to review status of watershed plan due to the SCS (now NRCS) reinvention process.

December 2, 1994 – Meeting with ERCD Directors and District to discuss supplemental agreement and joint letter of support for the watershed plan.

December 8, 1994 – A joint letter of support (District and ERCD) for the watershed plan is sent to NRCS

September 1, 1999 – US Army Corps of Engineers publishes Public Notice (No. 24317S) on the Santa Clara Valley Water District's permit application for the 1998 Lower Silver Creek Watershed Plan for the mandatory 30-day public review period. See **Subsection 7.8.3** for a summary of responses.

February 7, 2000 – District (and Coyote Watershed Program) representative attended a GCRCD meeting to inform the RCD of current environmental review process.

7.8.2 Distribution of the U. S. Army Corps of Engineers Public Notice to Agencies and Organizations

Department of Water Resources
Evergreen Resource Conservation District
National Marine Fisheries Service, SW Region
Klamath Basin National Wildlife Refuges
Mount Diablo Audubon Society
National Marine Fisheries Service, SW Region HCD
Natural Resources & Wildlife Senate Committee
Northwest Information Center, Sonoma State University
San Francisco Bay Bird Observatory
San Francisco Bay Conservation & Development Commission
U.S. Army Corps of Engineers, Eureka Field Office
California Department of Transportation
California Regional Water Quality Control Board, Central Coast Region
California State Lands Commission
U.S. Department of Transportation, Federal Highway Administration,
    Region Nine California Division
United States Department of Agriculture, Natural Resources Conservation Service
The Nature Conservancy, California Regional Office
U.S. Environmental Protection Agency, Region IX
FEMA, Reg IX
California Department of Transportation, District 2
Keith R. Anderson
USFWS, Endangered Species Office
City of Santa Clara, St. Dept Corporation Yard
Santa Clara Valley Transportation Authority, Planning and Development Division
U.S. Army Corps of Engineers, CESPD Co
S.F. Bay Regional Water Quality Control Board
California Waterfowl Association
Sierra Club
Bay Planning Coalition
Sierra Club Marin Group
Streams for Tomorrow
Libby Lucas
Santa Clara County Parks & Recreation
U.S. Fish & Wildlife Service, Division of Ecological Service
Citizens Committee to Complete the Refuge
Sierra Club
Honorable George Miller
Point Reyes Bird Observatory
California Department of Fish & Game
Center for Marine Conservation

NOAA
USACE Project Management Division
MTC
California Native Plant Society
Earth Justice Legal Defense Fund
Center for Marine Conservation
Marin Audubon Society
Environmental Counsel Trout Unlimited
Natural Resources Conservation Service, Watershed Planning Services
State Coastal Conservancy

7.8.3 Summary of Responses to the September 1, 1999 U. S. Army Corps of Engineers Public Notice

Pacific Gas and Electric - PG&E's primary comments, as they relate to the flood control project, focused on the potential to change the grade above their pipelines, compaction, maintaining adequate clearances around facilities, dust, temporary or permanent relocation of facilities.

California Department of Transportation (Caltrans) - Caltans requested site specific channel designs at the three bridge locations as well as back-up calculations, photographs, field notes, and channel transition details into and out of the bridge reaches. Caltrans also noted encroachment permits may be needed for work or traffic control in State right-of-way.

San Francisco Bay Conservation and Development Commission (BCDC) - BCDC noted they do not have jurisdiction over the project.

Federal Emergency Management Agency (FEMA) - FEMA noted that any modifications to the floodplain should be transmitted to them in the form of a request for a Flood Insurance Rate Map change.

APPENDIX A
PUBLIC COMMENTS AND RESPONSES

INTRODUCTION

The Lower Silver Creek Watershed Project 1983 Recommended Plan, as modified by the 1998 Plan Update Initial Study/Negative Declaration and Environmental Assessment (IS/EA) was circulated for a 30-day public review from October 11 to November 9, 2000.

The District mailed copies of the IS/EA and Notice of Intent to Adopt a Negative Declaration (NOI) to 57 agencies, organizations, and individuals. In addition the NOI was published in the San Jose Mercury News and mailed to approximately 7,000 residents of the proposed project area. The District filed the NOI with the County Clerk on October 10, 2000 and the Clerk's office posted the NOI on October 10, 2000 through November 9, 2000.

Four agencies provided written comments (Table 1). This appendix contains the written comments received as of November 29, 2000. The District's responses to comments are provided herein. Letters received are reproduced in chronological order and labeled by letter. Apart from courtesy statements, introductions, background information, and closings, each topical part of the correspondence is labeled with a number (e.g., 1, 2, 3, etc.). Response to the comments immediately follow each letter and are similarly labeled and numbered.

The District extends its appreciation to all who took the time and effort to submit comments. Comments provide invaluable feedback which have been taken into consideration for the project.

TABLE 1

Comment Letters Received through November 29, 2000

Lower Silver Creek Watershed Project 1983 Recommended Plan, as modified by the 1998 Plan Update Initial Study/Negative Declaration and Environmental Assessment

Commenting Agency (Date)	Nature of Comment	Response Required
Letter A. California Department of Transportation (October 27, 2000)	Acknowledgment that the project is not expected to have a significant traffic impact to State Highway system	No
Letter B. Department of Toxic Substances Control (November 6, 2000)	Handling of potentially hazardous materials	Yes
Letter C. Guadalupe-Coyote Resource Conservation District (November 7, 2000)	Miscellaneous comments	Yes
Letter D. Office of Planning and Research (November 9, 2000)	Acknowledgment of compliance with State Clearinghouse review requirements	No

COMMENT LETTER A

STATE OF CALIFORNIA - BUSINESS, TRANSPORTATION AND HOUSING AGENCY GRAY DAVIS, Governor

DEPARTMENT OF TRANSPORTATION
P O BOX 23660
OAKLAND, CA 94623-0660
Tel: (510) 286-4444
TDD (510) 286-4454

RECEIVED
NOV 1 0 2000
BY:

October 27, 2000

SCL-Various
2000102034
SCL000118

Ms. Rene Langis
Santa Clara Valley Water District
2471 Autumvale Drive, Suite G
San Jose, CA 95131

Dear Ms. Langis:

Negative Declaration for the Lower Silver Creek Watershed Project, Santa Clara Valley Water District

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the proposed project. We have examined the above-referenced document and have the following comments:

The proposed project is not expected to have a significant traffic impact to the State highway system. However, lane closures may be necessary. Please note that any work or traffic control proposed within the State right-of-way (ROW) will need an encroachment permit. To apply for an encroachment permit, the applicant will need to submit a completed application form, final environmental documentation, and five (5) sets of plans (in metric units) which also show State ROW, to the following address:

Office of Permits
Caltrans, District 4
P. O. Box 23660
Oakland, CA 94623-0660

Should you require further information or have any questions regarding this letter, please call Haiyan Zhang of my staff at (510) 622-1641.

Sincerely,

HARRY Y. YAHATA
District Director

By Jean CR Finney

JEAN C. R. FINNEY
District Branch Chief
IGR/CEQA

c: State Clearinghouse

A. RESPONSE TO CALIFORNIA DEPARTMENT OF TRANSPORTATION LETTER OF OCTOBER 27, 2000

1. Comment is noted; no response is necessary

COMMENT LETTER B

Department of Toxic Substances Control

Edwin F. Lowry, Director
700 Heinz Avenue, Suite 200
Berkeley, California 94710-2721

Winston H. Hickox
Agency Secretary
California Environmental
Protection Agency

Gray Davis
Governor

RECEIVED
NOV 0 8 2000
BY:

November 6, 2000

Mr. René Langis
Coyote Watershed Program Office
Santa Clara Valley Water District
2471 Autumnvale Drive, Suite G
San Jose, California 95131

Dear Mr. Langis:

Thank you for the opportunity to comment on the Initial Study/Negative Declaration and Environmental Assessment for the Lower Silver Creek Watershed Project - 1983 Recommended Plan, as Modified by the 1998 Plan Update [SCH #2000102034]. The project is an approximate 30 acre site located from the confluence with Coyote Creek to Cunningham Avenue in San Jose. As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a resource agency, DTSC is submitting comments to ensure that the environmental documentation prepared for this project to address the California Environmental Quality Act (CEQA) adequately addresses any required. remediation activities which may be required to address any hazardous substances release.

The proposed project would excavation of soil to create an earthen channels. Section 4.7, Hazards and Hazardous Materials (page 4-10), states that the sediments will be tested before removal and if found to contain hazardous substances, the material will not be reused, but taken to a Class I landfill. We suggest that the evaluation include a discussion of the process that will be followed with respect to soil sampling, data evaluation, health and safety procedures and waste disposal practices. In addition, the regulatory agency(ies) that will be working with the ~~Santa Clara Valley~~ Water District on this project in the event that hazardous substances are found should be included. ①

DTSC can assist your agency in overseeing characterization and cleanup activities through our Voluntary Cleanup Program. A fact sheet describing this program is enclosed. We are aware that projects such as this one are typically on a compressed schedule, and in an effort to use the available review time efficiently, we request that DTSC be included in any meetings where issues relevant to our statutory authority are discussed.

Please contact me at (510) 540-3839 if you have any questions or would like to

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schedule a meeting. Thank you in advance for your cooperation in this matter.

Sincerely,

Lynn Nakashima

Lynn Nakashima
Senior Hazardous Substances Scientist
Northern California - Coastal Cleanup
Operations Branch

Enclosures

cc: without enclosures

Governor's Office of Planning and Research
State Clearinghouse
P. O. Box 3044
Sacramento, California 95812-3044

Guenther Moskat
CEQA Tracking Center
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

B. RESPONSE TO DEPARTMENT OF TOXIC SUBSTANCES CONTROL LETTER OF NOVEMBER 6, 2000

1. As stated in the IS/EA the project site is not located on property included in the list of hazardous material sites under Government Code § 65962.5. In addition, the District's investigation of the site to date has not disclosed any hazardous materials present, and the District does not expect that any contaminated soils will be generated with this project. Nevertheless, per the comment request, the following is a description of the process to be followed by the District for conducting soil characterization at the site and for clean-up activities if any contamination were discovered.

Sampling and Analysis Plan

A Hazardous Materials Sampling and Analysis Plan (SAP) will be completed for each design contract prior to the beginning the field investigation. The SAP will specify depth and locations of samples to be collected for chemical and physical analyses. In addition, the laboratory program will be outlined in the SAP. The SAP will be developed based on a review of available hazardous material information including the Phase I Hazardous Materials Assessment.

Field Investigation and Testing

The field investigation will include sampling and analysis of creek sediments, embankment and bench soils, and groundwater that may be encountered during construction. The following specific activities will be conducted:

- Two days of direct-push drilling (16 borings) will be necessary
- One soil and one grab-groundwater sample will be collected from each boring for laboratory analysis
- Five sediment samples will be collected from the creek bottom alignment for laboratory analysis
- There are five monitoring wells on the site which will be sampled.

The soil and groundwater samples will be analyzed for potential offsite contaminants, as identified in the Phase I Report, in addition to the analyses required to characterize the soil and groundwater in excavation areas. Tests will be conducted for:

- Metals
- Total petroleum hydrocarbons (such as gasoline, diesel and motor oil)
- Benzene, toluene, ethyl benzene, total xylenes and MTBE
- Volatile organic compounds
- Semi volatile organic compounds
- Pesticides/PCBs.

Preliminary Site Characterization Report

A Site Characterization Report will document the results of the field investigation described above. The report will:

- Provide recommendations for soil and groundwater monitoring during construction, as needed
- Identify and evaluate possible impacts of any potential sources of contamination that may impact the project construction, project personnel, and the public
- Prepare a plan for coordinating and managing the disposal of wastes generated during project construction, as needed (including specifications for contract documents.)

The report will also provide recommendations for further field investigations, if necessary. If the site can be adequately characterized by the information obtained during the field investigation, the Site Characterization Report will be finalized. However, should high levels of contamination be encountered in one or more borings, additional sampling and analysis may be appropriate to better define the nature and the extent of the contamination. The report will be made available upon request.

Health and Safety Procedures

All work and materials used on the project site shall be in strict accordance with all applicable City, County and State Rules, Ordinances, Regulations, and Codes. The Contractor shall comply with CAL-OSHA Labor Code Section 6300 et seq. and with Chapter 4 of Title 8 of the California Administrative Code. Contractors will also need to prepare a Health and Safety Plan for all work potentially involving hazardous materials.

Waste Disposal Practices

It is anticipated that no contaminated soils will be generated with this project. In the event that contaminated soils are generated, however, the contaminated soil will be disposed of in a Class 1 landfill in accordance with the California Health and Safety Code.

The following regulatory agencies will be working with the District in the event that contaminated materials are encountered: Department of Toxic Substances and Control, Regional Water Quality Control Board, Environmental Protection Agency and the County of Santa Clara.

COMMENT LETTER C

GUADALUPE - COYOTE
RESOURCE CONSERVATION DISTRICT
888 NORTH FIRST STREET RM. 204, SAN JOSE, CA 95112
OFFICE (408) 288-5888 FAX (408) 993-8728

RECEIVED
NOV 0 9 2000
BY: TP

Rene Langis, Program Biologist
Coyote Watershed Program Office
Santa Clara Valley Water District
2471 Autumvale Drive, Suite G
San Jose, CA 95131

November 7, 2000

Dear Mr. Langis;

Upon review of the October 2000 Lower Silver Creek Watershed Project: Initial Study/Negative Declaration, our District submits the following comments.

We are concerned about not having been kept apprised of the decision to produce a Negative Declaration as well as other planning process decisions associated with this project. In the Project's Negative Declaration on page 7-8 it is stated we were informed of "current environmental review process in February 2000." Not until publication of the SCVWD's Negative Declaration on the Lower Silver Creek Flood Control Project did we learn of the SCVWD's intention to submit a Negative Declaration. And although we have been listed as a co-sponsor with the SCVWD and NRCS on this project, an application was sent to the Army Corp of Engineers for a permit and appeared in Public Notice (No. 24317S) for a 30 day public review period without our knowledge. Public representatives who are responsible for public funds must be kept better informed. ①

Further, we have concerns about a Negative Declaration because there have been significant and substantial changes since the 1983 FEIR/FEIS was certified. Steelhead trout have been listed as a Threatened Species. This species was known to spawn in the upper tributaries such a Thompson Creek in years with heavy rainfall. ② The 1983 EIR/EIS was deemed inadequate because of potential adverse environmental impacts by agencies which included federal, state, local resource and regulatory agencies. ③

Steelhead need to migrate through the project area to reach spawning grounds in heavy rainfall years. They need resting pools to help with migration and shaded pools to help with out migration. Because of these factors, we disagree that you do not need a Subsequent or Supplemental EIR, or an Addendum. We believe this to be in accordance with the Clean Water Act and possibly the Cologne Porter Act, similar to the Guadalupe River Project requirements. And although there may be no requirement to publish an addendum for public review, it is not unlawful to do so. ④

Leidy's 1984 survey was not a protocol study. It is clear that Leidy was not looking for salmonid species because his survey was conducted in the summer. The survey that the SCVWD used was also conducted in the summer. This is not the time steelhead are running. They run in the winter ⑤

2.

months. The mention of the 1985 picture did not include the time of year, nor the rainfall of that year. Years in which heavy rains occur are the years steelhead use these types of streams. (5)

Additionally, how closely does the Negative Declaration adhere to the 1999 updated version of the Lower Silver Creek Watershed project? Nowhere did this document say the fish barrier would be removed with the upper watershed being included in the plan along with the GCRCD's active involvement. This was agreed to in one of the first documents presented to us. Our intention for fish barrier removal is to allow for free steelhead migration to the upper reaches of the watershed. The upper reaches have historically been used by this species and their migration through the project area must be protected. Inclusion of the upper reaches in this plan is most important to the protection of the fishery and has always been the intent of our District. (6)

We would like to reiterate our continuing concerns about the project design itself. In meetings over the years, our District has repeatedly asked for the sediment studies of Lower Silver Creek. A sediment study would assess the impacts to steelhead trout, other species, and Coyote Creek. We do not agree to mere assurances. We have been told that the sediment data would be given to us. As of this date we have not received it. We also need to determine if the water velocities will harm the steelhead as well. We want this data in addition to the sediment data. (7)

This project has not been designed to bankful width. Because of that, the sediment load, increased impervious surfaces in the watershed, and a constricted channel, we believe the project will fail to perform as expected. It is our responsibility as representatives of the public to determine the merits of this project since we have been listed as a co-sponsor. We have always agreed to continue to improve this project as it went along, but we have not been given the data we need at this point. (8)

Our original letter was concerned with the great amount of concrete or hardscape in the project, (as were other agencies). The channel remains hardscaped with a small amount of vegetation that could be planted in the concrete blocks. The 1998 updated plan replaces 6 trapezoidal concrete channels with Hybrid vegetated concrete block walls with topsoil over rip rap at invert. It also replaces 2 rectangular concrete channels with the same Hybrid vegetated concrete block walls.This is not an improvement for the steelhead fishery. Ultimately, the vegetation would need to provide shade and lower water temperatures. However, we believe the vegetation could be difficult to establish in the blocks or it may be "blown out" during flood events. (9)

We strongly disagree that a Negative Declaration should be approved for this project. As long as we are listed as co-sponsors, we also object to our name being used in documents that are to be published for review unless our board is notified and we have had a chance at input. (10)

Sincerely,

Nancy Bernardi

Nancy Bernardi,
Director

C. RESPONSE TO GUADALUPE COYOTE RESOURCE CONSERVATION DISTRICT LETTER OF NOVEMBER 7, 2000

1. In a letter dated February 1, 2000, addressed to Ms. Michelle Geary, President of the Guadalupe-Coyote Resource Conservation District, Mr. Marc Klemencic, Coyote Watershed Manager-SCVWD, informed the GCRCD of a tentative approach to meet CEQA/NEPA requirements for the project. The letter stated that SCVWD staff decided to recommend using a Negative Declaration/Finding of No Significant Impacts to address CEQA/NEPA requirements for the 1998 Watershed Plan Update. In addition, SCVWD staff met with the GCRCD Board of Directors at its February 7, 2000 meeting precisely to provide an update on the CEQA/NEPA approach and GCRCD did not convey concerns with the approach at that time. SCVWD staff attended several GCRCD Board meetings between October 1999 and July 2000 to discuss the project status and/or the cooperation between the District, NRCS, and GCRCD.

2. The IS/EA examined the changes in circumstances with respect to new listings of both plant and animal species since the 1983 FEIR/FEIS (see pages 2-2 through 2-11 and pages 4-4 and 4-5). In addition, the U.S. Army Corps of Engineers (Corps) informally consulted with the National Marine Fisheries Service (NMFS) during its review of the District's application for a Corps 404 permit and concluded that the federally-listed steelhead is not known to occur in the reaches of Lower Silver Creek affected by the project; the Corps thereby acknowledged that consultation under Section 7 of the Endangered Species Act was not required. This finding was confirmed by the NMFS in a letter addressed to Mr. Jeffrey R. Vonk of the NRCS on March 30, 2000. The NMFS finding implies that the project will not have any significant impact to steelhead within the project reach. In addition, NMFS' concern about possible increased downstream sedimentation from the project construction has been addressed by ensuring that the stream is isolated from construction activities, as NMFS has proposed. This will be accomplished through application of the standard Best Management Practices or BMPs (listed in Table 3 of the IS/EA). Therefore, no mitigation is required. The specific fish habitat measures included in the project (including the low-flow channel, riffles, and resting pools) should be considered as habitat improvements and not fisheries mitigation measures.

   To the best of the SCVWD's knowledge, there is no documented presence of steelhead or suitable habitat in the upper tributaries of Lower Silver Creek, including Thompson Creek. Existing environmental conditions are unfavorable to steelhead in Lower Silver Creek including presence of barriers, lack of resting pools, lack of rearing habitat, high water temperatures during out-migration of juveniles (May through August) and high velocities during heavy rainfall events (see IS/EA pages 2-3 through 2-11 and pages 4-4 and 4-5).

3. The 1983 FEIR/FEIS was certified by the SCVWD Board of Directors on July 12, 1983 (Resolution No. 83-37) and the Record of Decision was signed by the NRCS on August 26, 1983. This decision was not challenged. Therefore, under CEQA Section 21167.2 (and other provisions), the 1983 FEIR is by law conclusively presumed to be valid (unless there is new information or project changes under section 21166). The

agenda memorandum relating to the 1983 FEIR/FEIS stated that the Soil Conservation Service (now the NRCS) had responded to written comments received from eight Federal agencies, two State agencies, four local agencies and two individuals, and that all environmental impacts had been mitigated to a level of insignificance. Comments relative to the amount of hardscape were received during the public review associated with the SCVWD Corps 404 permit application (June 1989). Thereafter the NRCS and SCVWD evaluated whether it was possible to reduce the amount of hardscape associated with the 1983 Plan, and subsequently developed the 1998 Plan Update.

The analysis in the IS/EA shows that there are no changes in the project or circumstances or new information indicating that the project will cause any new significant impacts or increase the severity of any significant impacts identified in the 1983 FEIR/FEIS, or that there are other feasible alternatives or mitigation measures that the District has declined to adopt that would substantially reduce any significant impacts. Accordingly, the District is not required to prepare a Supplemental or Subsequent EIR under Public Resources Code § 21166 or CEQA Guideline §§ 15162 and 15163.

4. Following the NMFS determination that Section 7 consultations regarding steelhead are not warranted under the Endangered Species Act, it can be inferred that NMFS concurs with the District's finding of no significant impact to a federally listed species and that the decision to prepare a Negative Declaration is adequate. Based on this and the results of the District's own investigation as detailed in the IS/EA, there is no justification for the preparation of Subsequent or a Supplemental EIR. Further, the 1983 Recommended Plan, as modified by the 1998 Plan Update, is an environmentally improved project that provides enhanced habitat for fish; this is a beneficial modification to the project.

With respect to the argument that the SCVWD could have done an Addendum and submitted it for public review, there is no requirement under CEQA for submitting an Addendum to public review. However there is a requirement for public review of a Negative Declaration. As noted in the Negative Declaration (page ii) and in the Initial Study (page 1-1), the SCVWD believes that it serves the public interest to have prepared an Initial Study/Negative Declaration specifically for public review and comment.

5. The first sentence of this comment is correct; in 1984, protocols for steelhead surveys had not been established. Steelhead was not listed until 1997 at which time survey protocols were established. However, Leidy's study consisted of electroshocking in streams of the Bay Area, which resulted in a direct sampling of fish species found in the streams. Steelhead over-summers (i.e., rears) in streams for one to two years; thus, summer sampling does not preclude the potential of finding salmonids (e.g., steelhead). In fact, Leidy did find steelhead in creeks within the Coyote Creek Watershed during the summer months (e.g., Penitencia Creek and upper Coyote Creek). Thus, the SCVWD has no reason to suspect that Leidy was not looking for salmonids. Leidy also updated his earlier survey in 1999 and again found salmonids

in Penitencia and Coyote creeks and not in Lower Silver Creek (see page 2-10 of the IS/EA). Even if a few stray steelhead were to run up Lower Silver Creek during a heavy winter rain event, no construction work is allowed during the rainy season, and other fisheries and aquatic resource and habitat protection BMPs (listed in Table 3 of the IS/EA) would avoid a potential impact to steelhead.

6. The IS/EA is consistent with the 1998 Plan Update. The Quimby drop structure is located outside of the project area, and the NRCS 1998 Lower Silver Creek Watershed Project Plan Section 404(B)1 Alternatives Analysis and Plan Update states on page 23 that it is separate from their workplan. Therefore, it is not included in the IS/EA. However, the SCVWD has not abandoned a fish ladder at Quimby, but has decided that it is not a part of the NRCS project currently under consideration. It will be done as a separate project to be scheduled when appropriate as determined by the SCVWD Board of Directors. The schedule for the fish ladder may be coordinated with the GCRCD Fishery Enhancement Plan as also mentioned on page 23 of the Plan Update.

7. The ~~National~~ Natural Resources Conservation Service (NRCS), known previously as the Soil Conservation Service, prepared a 1982 sedimentation study as part of the Final Watershed Plan for Lower Silver Creek. This study addressed sediment issues at Lake Cunningham and above. The GCRCD should have copies of this document in its library; however, the SCVWD will provide the GCRCD with a new copy if requested.

   Only the changes to the 1983 Recommended Plan, as modified by the 1998 Plan Update are addressed in the IS/EA. However, the 1983 FEIR/FEIS determined that the project would bring a slight reduction in erosion and sedimentation because about 85% of the total erosion in the watershed occurs outside of the project footprint in the upper watershed. The 1983 FEIR/FEIS also mentions that existing county and city regulations, and the GCRCD's on-going land treatment program, will maintain and improve vegetative cover in the upper watershed and reduce sedimentation in Lower Silver Creek.

   Water velocities for the design flow (corresponding approximately to the 100-year storm) are included on each typical cross-section provided with the Corps 404 permit application and reproduced in Public Notice No. 24317S, dated September 1, 1999. SCVWD will provide the GCRCD with a copy of this document if requested. The water velocities associated with more frequent storms are not available on these cross-sections but are generally believed to be lower. According to NMFS guidelines, steelhead can tolerate a maximum velocity of 5 feet-per-second (fps), unless in-stream shelters are present. The 1998 Plan Update proposes the installation of resting pools, vortex weirs and other in-stream shelters that will allow steelhead to withstand water velocities in excess of 5 fps and therefore is considered to have a beneficial effect on steelhead fishery when compared to the 1983 Plan.

8. The issue of a designing a channel that could carry the bankfull discharge (approximately equivalent to the two-year flow event) was studied as part of alternative "L" – "Ideally Restored" Lower Silver Creek and alternative "S" - The

Geomorphic Stream Restoration in the Lower Silver Creek Watershed Project Plan Section 404(B)1 Alternatives Analysis and Plan Update (1998). GCRCD was part of the design team that studied and rejected these and the others alternatives considered in the 1998 Plan Update as infeasible (see Appendix H of the Plan Update and the IS/EA, page 1-7). As set forth above in response to comment 7, the District's 1983 FEIR/FEIS determined that the project as then designed would result in a slight reduction in the erosion and sedimentation that would otherwise occur, and the analysis in the IS/EA at page 4-11 for the modified project shows that the BMP's will continue to prevent this from being a significant impact of this project.

9. The SCVWD is committed to reducing the amount of hardscape to the absolute minimum required. However, creek hydraulics and geotechnical constraints confirm the requirement for some hardening of the creek banks along the project reaches as described in the 1998 Plan Update, which remain substantially less than what was proposed in the 1983 FEIR/FEIS (IS/EA, pages 1-5 to 1-15). The proposed hybrid block design is a modification to the concrete-lined channel that was proposed in the 1983 Plan. The hybrid block design offers better habitat and aesthetic values than concrete, but falls short of a truly naturalized stream section (which the existing Lower Silver Creek is not).

   The final design, currently in progress, will insure that the vegetation will be successfully established within the hybrid blocks and that the integrity of the hybrid block sections will be maintained under the design flows.

10. Comment noted.

COMMENT LETTER D

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse

Gray Davis
GOVERNOR

Steve Nissen
ACTING DIRECTOR

RECEIVED
NOV 15 2000
BY: N

November 9, 2000

Rene Langis
Santa Clara Valley Water District, Coyote Watershed Program
2471 Autumvale Drive, Suite G
San Jose, CA 95131

Subject: Lower Silver Creek Watershed Project
SCH#: 2000102034

Dear Rene Langis:

The State Clearinghouse submitted the above named Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on November 8, 2000, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

> "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts

Terry Roberts
Senior Planner, State Clearinghouse

Enclosures
cc: Resources Agency

Document Details Report
State Clearinghouse Data Base

SCH# 2000102034
Project Title Lower Silver Creek Watershed Project
Lead Agency Santa Clara Valley Water District

Type **Neg** Negative Declaration

Description The Lower Silver Creek Watershed Project-1983 Recommended Plan, as Modified by the 1998 Plan Update is a five-mile flood protection and creek restoration project proposed for the eastern portion of the City of San Jose and adjacent unincorporated areas of Santa Clara County.

Lead Agency Contact

Name Rene Langis
Agency Santa Clara Valley Water District, Coyote Watershed Program
Phone (408) 586-0110 ext. 19 ***Fax***
email
Address 2471 Autumvale Drive, Suite G
City San Jose ***State*** CA ***Zip*** 95131

Project Location

County Santa Clara
City San Jose
Region
Cross Streets From confluence w/Coyote Creek to Cunningham Avenue
Parcel No.
Township ***Range*** ***Section*** ***Base***

Proximity to:

Highways I-680/280:U.S. 101
Airports Reid-Hillview Co Airport
Railways Union Pacific
Waterways Lower Silver Creek; Coyote Creek
Schools
Land Use Project reaches are located in urbanized part of east of San Jose. Land uses are primarily residential and commercial.

Project Issues Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Economics/Jobs; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Minerals; Noise; Public Services; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife; Growth Inducing; Landuse; Cumulative Effects; Population/Housing Balance; Recreation/Parks; Drainage/Absorption

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Reviewing Agencies Resources Agency; Department of Conservation; Department of Fish and Game, Region 3; Office of Historic Preservation; Department of Parks and Recreation; Reclamation Board; Office of Emergency Services; California Highway Patrol; Caltrans, District 4; State Water Resources Control Board, Division of Water Quality; Regional Water Quality Control Board, Region 2; Department of Toxic Substances Control; Native American Heritage Commission; Public Utilities Commission; State Lands Commission

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Date Received 10/10/2000 ***Start of Review*** 10/10/2000 ***End of Review*** 11/08/2000

Note: Blanks in data fields result from insufficient information provided by lead agency.

D. RESPONSE TO GOVERNOR'S OFFICE OF PLANNING AND RESEARCH LETTER OF NOVEMBER 9, 2000

1. The letter acknowledges that the District has complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. No response is necessary.

APPENDIX B

POLICY OF THE BOARD

Santa Clara Valley Water District

Title: Board Direction to the CEO/GM **Category:** Ends

Policy No. E-1 Date of Adoption: October 19, 1999

Board Officer's affirmation of official Board action adopting this policy.

Officer

The mission of the District is a healthy, safe, and enhanced quality of living in Santa Clara County through the comprehensive management of water resources in a practical, cost-effective, and environmentally-sensitive manner.

Accordingly, the Board of the District has adopted the following directions to the CEO/GM as to the intended results, organizational products, impacts, benefits, outcomes, recipients, and their relative worth (what good for which recipients at what costs):

1. There is a healthy and safe environment for residents and visitors.

    1.1 There is a reliable supply of healthy, clean drinking water.

        1.1.1. The water supply meets or exceeds all applicable water quality regulatory standards in a cost-effective manner.

        1.1.2. The water supply is reliable to meet current demands.

        1.1.3. The water supply is reliable to meet future demands as identified in the District's Integrated Water Resource Plan (IWRP) process.

        1.1.4. There are a variety of water supply sources.

        1.1.5. The groundwater basins are aggressively protected from contamination and the threat of contamination.

        1.1.6. Water recycling within Santa Clara County is expanded.

    1.2. There is reduced potential for flood damages.

        1.2.1. The cost of reducing the potential for flood damages is balanced with benefits (including possible environmental restoration and enhancement).

1.2.2. There is a balance between the contributions of watersheds and streams in providing for public health and safety and in providing protection of natural resource benefits.

1.2.2.1. Homes, schools, businesses, and transportation networks are protected from flooding and erosion.

1.2.2.2. There is clean, safe water in our creeks and bays.

1.2.2.3. Groundwater supplies are sustained.

2. There is an enhanced quality of life in Santa Clara County.

2.1. Watersheds, streams, and the natural resources therein are protected and when appropriate enhanced or restored.

2.1.1. Healthy creek and bay ecosystems are protected, enhanced, or restored as determined appropriate by the Board.

2.1.1.1. Mitigation for the adverse impacts of District activities are identified.

2.1.1.2. Opportunities to enhance or restore natural resource benefits of streams and watersheds are identified.

2.1.1.3. Mitigation, enhancements, or restorations are implemented when determined appropriate by the Board.

2.2. There are additional open spaces, trails, and parks along creeks and in the watersheds when reasonable and appropriate.